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No. 26]

NEW DELHI, JUNE 21—JUNE 27, 2015, SATURDAY/JYAISTHA 31—ASADHA 6, 1937

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS

(कार्मिक और प्रशिक्षण विभाग)

(Department of Personnel and Training)

नई दिल्ली, 19 जून, 2015

New Delhi, the 19th June, 2015

का.आ. 1255.—केन्द्र सरकार एतद्द्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं 2) की धारा 24 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, चेन्नई, तमिलनाडु राज्य में केन्द्रीय अन्वेषण ब्यूरो द्वारा सौंपे गए दिल्ली विशेष पुलिस स्थापना (सीबीआई) द्वारा संस्थापित मामलों का परीक्षण न्यायालयों तथा विधि द्वारा स्थापित पुनरीक्षण या अपीलीय न्यायालयों में अपीलों/पुनरीक्षणों या उनसे उत्पन्न अन्य मामलों के अभियोजन का संचालन करने के लिए निम्नलिखित अधिवक्ताओं को विशेष लोक अभियोजक के रूप में नियुक्त करती है।

सर्वश्री

1. बी० मोहन
2. एन० भास्करन
3. एन०टी० मोहम्मद इब्राहिम
4. पी० सिद्धार्थना
5. डॉ० आर० उमा

S.O. 1255.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints following Advocates as Special Public Prosecutor for conducting prosecution of cases instituted by Delhi Special Police Establishment (CBI) in the State of Tamil Nadu at Chennai as entrusted to them by the Central Bureau of Investigation in the trial courts and appeals/ revisions or other matters arising out of these cases in revisional or appellate courts established by law.

S/Shri

- (1) B. Mohan
- (2) N. Baaskaran
- (3) N.T. Mohamed Ibrahim
- (4) P. Sidharthan
- (5) Dr. R. Uma

[फा सं 225/7/2015-ए०वी०डी०-II]
अजित कुमार, अवर सचिव

[F. No. 225/7/2015-AVD-II]
AJIT KUMAR, Under Secy.

नई दिल्ली, 19 जून, 2015

का.आ. 1256.—केन्द्र सरकार एतद्द्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं 2) की धारा 24 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए सिलवासा स्थित माननीय न्यायालय विशेष न्यायाधीश, दादरा एवं नगर हवेली में दिल्ली विशेष पुलिस स्थापना (सीबीआई) की ओर से मामला सं आरसी 1(ए)/2012/सीबीआई/एसी-III नई दिल्ली तथा इससे सम्बद्ध एवं प्रासंगिक अन्य मामलों में अपीलों/पुनरीक्षणों में उपस्थित होने के लिए श्री अजय कुमार गुप्ता, अधिवक्ता को विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[फा सं 225/53/2014-एवीडी-III]

अजित कुमार, अवर सचिव

New Delhi, the 19th June, 2015

S.O. 1256.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri Ajay Kumar Gupta, Advocates as special Public Prosecutor for appearing in Case No. RC 1(A)/2012/CBI/AC-III/New Delhi in the Hon'ble Court of Special Judge, Dadra Nagar Haveli at Silvasa on behalf of (CBI) Delhi Special Police Establishment and appeals/revisions or other matters connected therewith and incidental thereto.

[F.No. 225/53/2014-AVD-II]

AJIT KUMAR, Under Secy.

नई दिल्ली, 25 जून, 2015

का.आ. 1257.—केन्द्र सरकार एतद्द्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं 2) की धारा 24 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए सुश्री मिनि एम नायर एवं श्री एसएस जीवन, अधिवक्ताओं को तिरुवनंतपुरम स्थित केरल राज्य में केन्द्रीय अन्वेषण ब्यूरो द्वारा उन्हें सौंपे गए दिल्ली विशेष पुलिस स्थापना (सीबीआई) द्वारा संस्थापित मामलों का विचारण न्यायालयों में अभियोजन संचालन करने तथा विधि द्वारा संस्थापित पुनरीक्षण अथवा अपीलीय न्यायालयों में उन मामलों से उत्पन्न प्रासंगिक अन्य मामलों में अपील/पुनरीक्षण हेतु विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[फा सं 225/4/2015-एवीडी-III]

अजित कुमार, अवर सचिव

New Delhi, the 25th June, 2015

S.O. 1257.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Ms. Mini M. Nair and Shri S.S. Jeevan,

Advocates as Special Public Prosecutor for conducting prosecution of cases instituted by Delhi Special Police Establishment (CBI) in the State of Kerala at Thiruvananthapuram as entrusted to them by the Central Bureau of Investigation in the trial courts and appeals/revisions or other matters arising out of these cases in revisional or appellate courts established by law.

[F.No. 225/4/2015-AVD-II]

AJIT KUMAR, Under Secy.

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 18 जून, 2015

का.आ. 1258.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा 3 के खंड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा, नीचे दी गई सारणी के कालम (3) में विनिर्दिष्ट व्यक्ति को उक्त सारणी के कालम (2) में विनिर्दिष्ट व्यक्ति के स्थान पर कालम (1) में विनिर्दिष्ट बैंक में तत्काल प्रभाव से और अगले आदेश होने तक, निदेशक नामित करती है:—

क्रम सं	बैंक का नाम	वर्तमान निदेशक का नाम	प्रस्तावित व्यक्ति का नाम
1	2	3	4
1.	युनाइटेड बैंक आफ इंडिया	श्रीमती पार्वती वी. सुन्दरम, मुख्य महाप्रबंधक	श्री अर्नब रॉय, मुख्य महाप्रबंधक एवं क्षेत्रीय निदेशक, भारतीय रिजर्व बैंक, रामबाग सर्कल, टॉक रोड, पी.बी.नं. 12, जयपुर-302052

[फा सं 6/3/2011-बीओ-I]

विजय मल्होत्रा, अवर सचिव

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 18th June, 2015

S.O. 1258.—In exercise of the powers conferred by clause (c) of the sub-section (3) Section 9 of the Banking Companies (Acquisition & Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 of the Nationalized Banks (Management & Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, hereby nominates the persons specified in column (3) of the table below as Director of United Bank of India specified in column (1) thereof in place of the person specified in column (2) of said Table, with immediate effect and until further orders:—

Sl. No.	Name of the Bank	Name of the Existing Director	Name of the Persons proposed
1	2	3	4
1.	United Bank of India	Smt. Parvathy V Sundaram, CGM	Shri Arnab Roy, CGM and Regional Director, Reserve Bank of India, Rambagh Circle, Tonk Road, P.B. No. 12, Jaipur- 302052

[F.No. 6/3/2011-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 26 मई, 2015

का.आ. 1259.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 19 के खंड (ख) और धारा 20 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा, भारतीय स्टेट बैंक के उप-प्रबंध निदेशक श्री रजनीश कुमार (जन्म तिथि : 14.01.1958) को श्री ए. कृष्ण कुमार (जो दिनांक 30.11.2014 को सेवानिवृत्त हो चुके हैं) के रिक्त हुए पद पर उनके पदभार ग्रहण करने की तारीख से 31.01.2018 तक, अर्थात् अधिवर्षिता की आयु प्राप्त करने तक अथवा अगले आदेश होने तक, जो भी पहले हो, भारतीय स्टेट बैंक में प्रबंध निदेशक नियुक्त करती है।

[फा सं 2/7/2013-बीओ-I]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 26th May, 2015

S.O. 1259.—In exercise of the powers conferred by clause (b) of section (19) and Sub-section (1) of Section 20 of the State Bank of India Act, 1955 (23 of 1955), the Central Government, hereby appoints Shri Rajnish Kumar (DOB: 14.01.1958), Deputy Managing Director, State Bank of India as Managing Director, State Bank of India against the vacancy of Shri A. Krishna Kumar (who superannuated on 30.11.2014), from the date of his taking over the charge of the post and up to 31.01.2018 *i.e.* the date of his attaining the age of superannuation or until further orders, whichever is earlier.

[F.No. 2/7/2013-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 15 जून, 2015

का.आ. 1260.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा 3 के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग

करते हुए, केन्द्रीय सरकार, एतद्द्वारा, नीचे दी गई सारणी के कालम (2) में विनिर्दिष्ट व्यक्तियों को उक्त सारणी के कालम (3) में विनिर्दिष्ट व्यक्तियों के स्थान पर कालम (1) में विनिर्दिष्ट बैंकों में तत्काल प्रभाव से और अगले आदेश होने तक, सरकारी नामित निदेशक नामित करती है:—

1	2	3
यूको बैंक	श्री वी०एल०वी०एस० सुब्बा राव, आर्थिक सलाहकार, वित्तीय सेवाएं विभाग	श्री प्रवीण रावल
ओरियंटल बैंक आफ कामर्स	श्री अरुनीस चावला, संयुक्त सचिव, व्यय विभाग	श्री राजन कुमार
स्टेट बैंक आफ हैदराबाद	श्रीमती ऐनी जार्ज मैथ्यू, संयुक्त सचिव, व्यय विभाग	रिक्त
स्टेट बैंक आफ पटियाला	श्री सुधीर श्याम, निदेशक, वित्तीय सेवाएं विभाग	श्री विजय मल्होत्रा
स्टेट बैंक आफ मैसूर	श्री एस० सेल्वकुमार, संयुक्त सचिव, आर्थिक कार्य विभाग	श्री जे० एस० फौगाट

[फा सं 6/3/2012-बीओ-I]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 15th June, 2015

S.O. 1260.—In exercise of the powers conferred by clause (b) of sub-section (3) of Section 9 of The Banking Companies (Acquisition & Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 of the Nationalized Banks (Management & Miscellaneous Provision) Scheme, 1970/1980, the Central Government, hereby nominate the persons specified in column (2) of the table below as Government Nominee Director of the Banks specified in column (1) thereof, in place of the persons specified in column (3) of the said Table, with immediate effect and until further orders:—

1	2	3
UCO Bank	Shri V.L.V. .S.S. Subba Rao, Economic Adviser, Department of Financial Services	Shri Praveen Rawal
Oriental Bank of Commerce	Shri Arunish Chawla, Joint Secretary, Department of Expenditure	Shri Rajan Kumar
State Bank of Hyderabad	Smt. Annie George Mathew, Joint Secretary, Department of Expenditure	Vacant
State Bank of Patiala	Shri Sudhir Shyam, Director, Department of Financial Services	Shri Vijay Malhotra
State Bank of Mysore	Shri S. Selvakumar, Joint Secretary, Department of Economic Affairs	Shri J S Phaugat

[F.No. 6/3/2012-BO-I]

VIJAY MALHOTRA, Under Secy.

उपभोक्ता मामले, खाद्य एवं सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक ब्यूरो)

नई दिल्ली, 11 जून, 2015

का.आ. 1261.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 4 के उपविनियम 5 के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिनके विवरण नीचे अनुसूची में दिए गए हैं, को लाइसेंस प्रदान किए गए हैं:—

अनुसूची

क्रम सं०	लाइसेंस नं०	स्वीकृत करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम एवं पता	भारतीय मानक का शीर्षक	भारतीय मानक सं०	भाग	अनु०	वर्ष
1	2	3	4	5	6	7	8	9
01.	5746683	20140301	शिवाली उद्योग (आई) लि० प्लॉट नं० 3 एवं 4, सेक्टर-डी, उर्ला इंडस्ट्रियल कॉम्प्लेक्स, सरोरा, जिला- रायपुर, छत्तीसगढ़-493221	कंक्रीट प्रबलन के लिए उच्च शक्ति विरूपित इस्पात सरिए एवं तार- विशिष्ट	1786			2008
02.	5752173	20140305	रामा पॉवर एण्ड स्टील प्रा० लि० खसरा नं० 344/1, पीएच नं० 101, सीएसईबी सब स्टेशन के समीप, बोरझारा, रायपुर, छत्तीसगढ़-493221	सामान्य संरचना इस्पात हेतु पुनर्वेल्लन के लिए कार्बन ढलवाँ इस्पात इंगट, बिलेट, ब्लूम एवं स्लैब - विशिष्ट	2830			2012
03.	5752678	20140310	गणपती इस्पात प्लॉट नं० 144, सेक्टर-सी, उर्ला इंडस्ट्रियल एरिया, रायपुर, छत्तीसगढ़-493221	सामान्य संरचना इस्पात हेतु पुनर्वेल्लन के लिए कार्बन ढलवाँ इस्पात इंगट, बिलेट, ब्लूम एवं स्लैब - विशिष्ट	2830			2012
04.	5752779	20140310	फॉर्चुन मेटल्स लि० ग्राम-सोंद्रा चिखाई, सिलतारा इंडस्ट्रियल ग्रोथ सेंटर, फेज़ II, सिलतारा, रायपुर, छत्तीसगढ़-493221	संरचनात्मक प्रयोग के लिये इस्पात के खोखले काट-विशिष्ट	4923			1997
05.	5752880	20140310	अविनाश इस्पात प्रा० लि० 200ए, इंडस्ट्रियल एरिया, उर्ला, रायपुर, छत्तीसगढ़-493221	सामान्य गुणता के संरचना इस्पात-विशिष्ट	15911			2010
06.	5753267	20140313	बालाजी स्ट्रक्चरल्स (इंडिया) लि० रिंग रोड नं० 2, टाटीबांध, रायपुर, छत्तीसगढ़	सामान्य गुणता के संरचना इस्पात-विशिष्ट	15911			2010

1	2	3	4	5	6	7	8	9
07.	5753377	20140313	श्री हनुमान लोहा प्रा० लि० अग्रसेन चौक, बजरंग नगर, रायपुर, छत्तीसगढ़-492001	सामान्य गुणता के संरचना इस्पात-विशिष्ट	15911			2010
08.	5753478	20140313	राधे हुर्कत इस्पात प्रा० लि० प्लॉट नं० 735/बी, उर्ला इंडस्ट्रियल एरिया, रायपुर, छत्तीसगढ़-493221	फावड़ा - विशिष्ट	1759			1986
09.	5754783	20140314	जुनेजा बिबरेज्स अग्रवाल लौज के सामने, बस्तर रोड़, धमतरी, छत्तीसगढ़-493773	पैकेजबंद पेय जल (पैकेजबंद प्राकृतिक मिनिरल जल के अलावा)	14543			2004
10.	5757284	20140402	राधे गोविंद स्टील एण्ड एलॉयज़ प्रा० लि० 102, जिंदल इंडस्ट्रियल पार्क, पुंजीपथरा, जिला- रायगढ़, छत्तीसगढ़-496001	सामान्य संरचना इस्पात हेतु पुनर्वेल्लन के लिए कार्बन ढलवों इस्पात इंगट, बिलेट, ब्लूम एवं स्लैब - विशिष्ट	2830			2012
11.	5757385	20140304	हर्ष विनिमय प्रा० लि० प्लॉट नं० 121, जिंदल इंडस्ट्रियल पार्क, पुंजीपथरा, जिला- रायगढ़, छत्तीसगढ़-496001	सामान्य संरचना इस्पात हेतु पुनर्वेल्लन के लिए कार्बन ढलवों इस्पात इंगट, बिलेट, ब्लूम एवं स्लैब - विशिष्ट	2830			2012
12.	5757486	20140402	श्री ओम मैनुफक्चरिंग (आई) प्रा० लि० ग्राम-कमलपुर, द्वारा सिलफिलिया कमलपुर, जिला-सुरगुजा, छत्तीसगढ़	पोर्टलैंड पोजोलाना सीमेंट- विशिष्ट	1489	1		1991
13.	5757890	20140403	ग्रीन गोल्ड ईरीगेशन प्रा० लि० खैरागढ़ रोड़, डोंगरगढ़, जिला-बस्तर, छत्तीसगढ़-491445	सिंचाई उपकरण - सिंचाई लेटरल के लिए पॉलीथीन पाइप	12786			1989
14.	5757991	20140403	ग्रीन गोल्ड ईरीगेशन प्रा० लि० खैरागढ़ रोड़, डोंगरगढ़, जिला- बस्तर, छत्तीसगढ़-491445	सिंचाई उपस्कर- उत्सर्जकी पाइप पद्धतियां- विशिष्ट	13488			2008
15.	5758791	20140403	ग्रीन गोल्ड ईरीगेशन प्रा० लि० खैरागढ़ रोड़, डोंगरगढ़, जिला- बस्तर, छत्तीसगढ़-491445	सिंचाई उपस्कर- उत्सर्जक-विशिष्ट	13487			1992

1	2	3	4	5	6	7	8	9
16.	5760879	20140411	प्रियंका इंडस्ट्रीज़ ग्राम-गंगपुर, पोस्ट- पिपरिया, तहसील- कवर्धा जिला- कवर्धा, छत्तीसगढ़-491995	पैकेजबंद पेय जल (पैकेजबंद प्राकृतिक मिनिरल जल के अलावा)	14543			2004
17.	5763077	20140423	यू बी वेंचर्स प्रा० लि० प्लॉट नं० 94 से 115, इंडस्ट्रियल एरिया, गिरवारगंज, सूरजपुर, जिला- सुरगुजा, छत्तीसगढ़-497229	कंक्रीट प्रबलन के लिए उच्च शक्ति विरूपित इस्पात सरिफ एवं तार- विशिष्ट	1786			2008
18.	5763178	20140423	जिंदल स्टील एण्ड पावर लि० पोस्ट बॉक्स नं० 16, खरसिया रोड, जिला- रायगढ़, छत्तीसगढ़-496001	फ्लैज कार्य एवं संरचना अभिरूपण हेतु तप्त बेल्लित इस्पात के फ्लैट उत्पाद - विशिष्ट	5986			2002
19.	5763279	20140428	रियल इस्पात एण्ड पावर लि० उर्ला-बेंद्री रोड, बोरझारा, जिला- रायपुर, छत्तीसगढ़-493221	सामान्य इंजीनियरी अनुप्रयोगों के लिए मृदु इस्पात की तार- विशिष्ट	280			2006
20.	5764079	20140501	ग्रैविटी फेरस प्रा० लि० 259/9, कन्हेरा रोड, ग्राम- अछोली, धरसीवा मंडल, उर्ला, रायपुर, छत्तीसगढ़-492023	कंक्रीट प्रबलन के लिए उच्च शक्ति विरूपित इस्पात सरिफ एवं तार- विशिष्ट	1786			2008
21.	5764887	20140506	सिंथल पॉलीमर्स 1/ए बीरकोनी, जिला- महासमुंद, छत्तीसगढ़-493445	पेयजल आपूर्ति के लिए अप्लास्टिक पीवीसी पाइप- विशिष्ट	4985			2000
22.	5764988	20140506	सिंथल पॉलीमर्स 1/ए बीरकोनी, जिला- महासमुंद, छत्तीसगढ़-493445	बोर-नलकूपों के लिए अनम्यकृत पी वी सी जाली और आवरक पाइप- विशिष्ट	12818			2010
23.	5767388	20140516	ओम श्री रूपेश स्टील प्रा० लि० ग्राम- चिरायपानी, तहसील- रायगढ़, जिला- रायगढ़, छत्तीसगढ़	संरचना इस्पात (साधारण गुणता) के पुनर्वेल्लन हेतु कार्बन ढलवाँ इस्पात इंगट, बिलेट, ब्लूम एवं स्लैब - विशिष्ट	2831			2012

1	2	3	4	5	6	7	8	9
24.	5768592	20140520	क्रेस्ट स्टील एण्ड पावर प्रा० लि० ग्राम- जोरातरई, पोस्ट- मंगट्टा, जिला- राजनंदगांव, छत्तीसगढ़-491441	संरचना इस्पात (साधारण गुणता) के पुनर्वेल्लन हेतु कार्बन ढलवां इस्पात इंगट, बिलेट, ब्लूम एवं स्लैब - विशिष्ट	2831			2012
25.	5768693	20140520	टॉपवर्थ स्टील्स एण्ड पावर लि० बोरयी इंडस्ट्रियल ग्रोथ सेंटर, ग्राम- रसमदा, जिला- दुर्ग, छत्तीसगढ़-491001	संरचना इस्पात (साधारण गुणता) के पुनर्वेल्लन हेतु कार्बन ढलवां इस्पात इंगट, बिलेट, ब्लूम एवं स्लैब - विशिष्ट	2831			2012
26.	5768996	20140505	मॉ मणी इंडस्ट्रीज़ प्रा० लि० ग्राम- नटवरपुर, तहसील- रायगढ़, जिला- रायगढ़, छत्तीसगढ़-496001	संरचना इस्पात (साधारण गुणता) के पुनर्वेल्लन हेतु कार्बन ढलवां इस्पात इंगट, बिलेट, ब्लूम एवं स्लैब - विशिष्ट	2831			2012
27.	5769089	20140530	रियल इस्पात एण्ड पावर लि० उर्ला डिविजन, प्लॉट नं० 317 से 321 एवं 356-360, सेक्टर-सी, उर्ला इंडस्ट्रियल एरिया, जिला- रायपुर, छत्तीसगढ़-493221	तप्त बेल्लित मध्यम एवं उच्च तन्यता के संरचना इस्पात- विशिष्ट	2062			2011
28.	5769695	20140616	मालती इंडस्ट्रीज पावर हाउस के सामने, रानी दुर्गावती चौक, पेंडुरोड, बिलासपुर, छत्तीसगढ़-495117	पैकेजबंद पेय जल (पैकेजबंद प्राकृतिक मिनिरल जल के अलावा)	14543			2004
29.	5771076	20140616	जिंदल स्टील एण्ड पावर लि० पोस्ट बॉक्स नं० 16, खरसिया रोड, जिला- रायगढ़, छत्तीसगढ़-496001	साधारण पोर्टलैंड सीमेंट, 53 ग्रेड- विशिष्ट	12269			1987
30.	5771177	20140616	जिंदल स्टील एण्ड पावर लि० पोस्ट बॉक्स नं० 16, खरसिया रोड, जिला- रायगढ़, छत्तीसगढ़-496001	साधारण पोर्टलैंड सीमेंट, 43 ग्रेड- विशिष्ट	8112			2013
31.	5771379	20140509	इपिक एलॉय स्टील प्रा० लि० 132 डी, जिंदल इंडस्ट्रियल पार्क, पुंजीपथरा, जिला- रायगढ़, छत्तीसगढ़-496111	सामान्य संरचना इस्पात हेतु पुनर्वेल्लन के लिए कार्बन ढलवां इस्पात इंगट, बिलेट, ब्लूम एवं स्लैब - विशिष्ट	2830			2012

1	2	3	4	5	6	7	8	9
32.	5778595	20140807	अंजनी स्टील्स लि० ग्राम-उजालपुर, पोस्ट- गेरवानी, तहसील- घरगोरा, जिला- रायगढ़, छत्तीसगढ़-496001	सामान्य संरचना इस्पात हेतु पुनर्वेल्लन के लिए कार्बन ढलवों इस्पात इंगट, बिलेट, ब्लूम एवं स्लैब - विशिष्ट	2830			2012
33.	5778696	20140725	बालाजी स्ट्रक्चरल्स (इंडिया) रिंग रोड नं० 2, टाटीबांध, जिला- रायपुर, छत्तीसगढ़	सामान्य संरचना इस्पात हेतु पुनर्वेल्लन के लिए कार्बन ढलवों इस्पात इंगट, बिलेट, ब्लूम एवं स्लैब - विशिष्ट	2830			2012
34.	5782990	20140807	पी०एस० स्टील ट्यूब्स लि० ग्राम- तेदेसरा, पोस्ट- सामनी, जिला- राजनंदगांव, छत्तीसगढ़-491441	यांत्रिक और सामान्य इंजीनियरिंग प्रयोजनों के लिए इस्पात की नलियां	3601			2006
35.	5785087	20140825	वंदना ग्लोबल लि० सिलतारा इंडस्ट्रियल एरिया, फेज़ II, सिलतारा, जिला- रायपुर, छत्तीसगढ़-493221	कंक्रीट प्रबलन के लिए उच्च शक्ति विरूपित इस्पात सरिफ एवं तार- विशिष्ट	1786			2008
36.	5786190	20140827	श्री बजरंग पॉवर इस्पात लि० ग्राम- बरझारा, गुमा रोड, इंडस्ट्रियल एरिया, रायपुर छत्तीसगढ़-493221	कंक्रीट प्रबलन के लिए उच्च शक्ति विरूपित इस्पात सरिफ एवं तार- विशिष्ट	1786			2008
37.	5786796	20140828	श्री हरदेव इंडस्ट्रीज़ पी०एच० नं० 39, खसरा नं० 400/1, 400/2, 401/1, 401/2, 401/3, 401/4, ग्राम- बरौंडा, तहसील- तिलदा, जिला- रायपुर, छत्तीसगढ़-493885	ईमारतों के भीतर एवं बाहर संवातन और वर्षा के पानी के साथ मल एवं अपशिष्ट विसर्जन के लिए अनम्यकृत पॉलीविनाइल क्लोराइड (यू०पी०वी०सी०) अन्तः क्षेपण संचकित फिटिंग्स- विशिष्ट	14735			1999
38.	5786897	20140826	अग्रवाल चैनल मील्ल्स प्रा०लि० प्लॉट नं० 34-35, फेज़-II, इंडस्ट्रियल ग्रोथ सेंटर, सिलतारा, धरसीवा ब्लॉक, जिला- रायपुर, छत्तीसगढ़-493111	तप्त बेल्लित मध्यम एवं उच्च तन्यता के संरचना इस्पात- विशिष्ट	2062			2011

1	2	3	4	5	6	7	8	9
39.	5787697	20140828	गायत्री इंडस्ट्रीज़ ग्राम- पद्मी, पोस्ट- बेमेतरा, तहसील-थान खमरिया, जिला- कवर्धा, छत्तीसगढ़-491335	पैकेजबंद पेय जल (पैकेजबंद प्राकृतिक मिनिरल जल के अलावा)	14543			2004
40.	5787798	20140901	श्रद्धा सबुरी इंटरप्राइजेज़ कत्यम बिहार, रायपुर, छत्तीसगढ़-492013	पैकेजबंद पेय जल (पैकेजबंद प्राकृतिक मिनिरल जल के अलावा)	14543			2004
41.	5792084	20140826	श्रीराम रोलिंग मील प्लॉट नं० 13-बी (पार्ट), इंडस्ट्रियल एरिया, रावाभाटा, धरसीवा ब्लॉक, जिला- रायपुर, छत्तीसगढ़-492001	सामान्य संरचना इस्पात हेतु पुनर्वेल्लन के लिए कार्बन ढलवों इस्पात इंगट, बिलेट, ब्लूम एवं स्लैब - विशिष्ट	2830			2012
42.	5796799	20140901	ग्रैविटी फेरस प्रा० लि० 259/9, कन्हैरा रोड, ग्राम- अछोली, धरसीवा मंडल, उर्ला, जिला- रायपुर, छत्तीसगढ़-492023	संरचना इस्पात (साधारण गुणता) के पुनर्वेल्लन हेतु कार्बन ढलवों इस्पात इंगट, बिलेट, ब्लूम एवं स्लैब - विशिष्ट	2831			2012
43.	5797094	20140917	श्री हरदेव इंडस्ट्रीज़ पी०एच० नं० 39, खसरा नं० 400/1, 400/2, 401/1, 401/2, 401/3, 401/4, ग्राम- बरौंडा, तहसील- तिलदा, जिला- रायपुर, छत्तीसगढ़-493885	पेयजल आपूर्ति के लिए अप्लास्टिक पीवीसी पाइप- विशिष्ट	4985			2000
44.	5798403	20140915	वंदना ग्लोबल लि० सिलतारा इंडस्ट्रियल एरिया, फेज़ II, सिलतारा जिला- रायपुर, छत्तीसगढ़-493221	तप्त बेल्लित मध्यम एवं उच्च तन्यता के संरचना इस्पात- विशिष्ट	2062			2011
45.	5798908	20140917	ईश्वर इस्पात इंडस्ट्रीज़ (प्रा०) लि० प्लॉट नं० 168, उर्ला इंडस्ट्रियल कॉम्प्लेक्स, उर्ला, जिला- रायपुर, छत्तीसगढ़-493221	तप्त बेल्लित मध्यम एवं उच्च तन्यता के संरचना इस्पात- विशिष्ट	2062			2011
46.	5799910	20140924	स्टील अथॉरिटी ऑफ इंडिया लि० भिलाई स्टील प्लॉट, भिलाई, जिला- दुर्ग, छत्तीसगढ़-490001	सामान्य इंजीनियरी प्रयोजनों की मृदु इस्पात तार छड़ों के उत्पादन के लिए इस्पात इंगट, ब्लूम और बिलेट- विशिष्ट	8952			1995

1	2	3	4	5	6	7	8	9
47.	5801665	20140924	अमरचंद गणेशमल सदर बाज़ार, रायपुर, छत्तीसगढ़-492001	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्ट	1417			1999
48.	5803568	20141009	विकास इंडस्ट्री 32/2, मुकेश निकुंज, बीजेपी ऑफिस के पीछे, बालोदा बाजार, छत्तीसगढ़-493332	पैकेजबंद पेय जल (पैकेजबंद प्राकृतिक मिनरल जल के अलावा)	14543			2004
49.	5804570	20141013	श्री जी मिनरल्स एण्ड न्यूट्रिट्स दाउदे-खुर्द, बालोदा बाजार, छत्तीसगढ़-493332	कोयला, कोक और लिग्नाइट भस्म की संगलनीयता ज्ञात करने की पद्धति	12981			1991
50.	5812468	20141020	जिऑन स्पाँज एण्ड पॉवर (प्रा०) लि० ग्राम- अम्लीडीह, पोस्ट- भालुमर, जिला-रायगढ़, छत्तीसगढ़-496001	सामान्य संरचना इस्पात हेतु पुनर्वेल्लन के लिए कार्बन ढलवाँ इस्पात इंगट, बिलेट, ब्लूम एवं स्लैब - विशिष्ट	2830			2012
51.	5812670	20141111	सुप्रीम इंडस्ट्रीज़ प्लॉट नं० 12/एफ एवं एफ1, हैवी इंडस्ट्रियल एरिया, हाथखोज, भिलाई, जिला- दुर्ग, छत्तीसगढ़-490024	नेफथलीन- विशिष्ट	539			1974
52.	5812771	20141112	गुजरात टिंबर इंडस्ट्रीज़ प्रा० लि० 80, इंडस्ट्रियल एरिया, उर्ला, रायपुर, छत्तीसगढ़-493221	ब्लॉकबोर्ड- विशिष्ट	1659			2004
53.	5812872	20141112	गुजरात टिंबर इंडस्ट्रीज़ प्रा० लि० 80, इंडस्ट्रियल एरिया, उर्ला, रायपुर, छत्तीसगढ़-493221	सामान्य प्रयोजनों के लिए प्लाईवुड- विशिष्ट	303			1989
54.	5819482	20141128	रीगा पीवीसी इंडस्ट्रीज़ प्लॉट नं० 27-28 (पार्ट) भानपुरी इंडस्ट्रियल एरिया, रायपुर, छत्तीसगढ़-492001	विद्युत बिस्थापन के लिए नाली- विशिष्ट	9537	3		1983
55.	5900000107	20141203	अशोक जिंदल प्लाईवुड प्रा० लि० पी०एच० नं० 10/13, खसरा नं० 160, 161, 162, 163/1, 163/2, 164, 165, 167 एवं 168, ग्राम- मोहकाखुर्द, तहसील- पाटन, भिलाई, जिला- दुर्ग, छत्तीसगढ़-490006	सामान्य प्रयोजनों के लिए प्लाईवुड- विशिष्ट	303			1989

1	2	3	4	5	6	7	8	9
56.	5900000208	201401203	रीगल प्रोडक्ट्स 835/61, राम नगर, गली नं० 2, रायपुर, छत्तीसगढ़-492001	पैकेजबंद पेय जल (पैकेजबंद प्राकृतिक मिनिरल जल के अलावा)	14543			2004
57.	5900000309	20141203	रवि ज्वेलर्स सी-203, नहाता मार्केट, सदर बाजार, रायपुर, छत्तीसगढ़-492001	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्ट	1417			1999
58.	5900000410	20141205	पद्मीनी ज्वेलर्स 128, एस०एस० प्लाजा, पी०एच० रोड, कोरबा, छत्तीसगढ़-495678	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्ट	1417			1999
59.	5900000511	20141218	शुभ डिजायनर ज्वेलरी बैद मार्केट, सदर बाजार, रायपुर, छत्तीसगढ़-492001	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्ट	1417			1999
60.	5900000612	20141217	सूर्या मिनरल्स ग्राम- बायंग, पोस्ट- नांदेली, जिला- रायगढ़, छत्तीसगढ़-496001	पैकेजबंद पेय जल (पैकेजबंद प्राकृतिक मिनिरल जल के अलावा)	14543			2004
61.	5900000705	20141219	मनु भाई ज्वेलर्स कोतवाली चौक, सदर बाजार, रायपुर, छत्तीसगढ़	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्ट	1417			1999
62.	5900000806	20141219	अरिहंत ज्वेलर्स गांधी वार्ड, महावीर स्वामी चौक, मुंगेली छत्तीसगढ़-495334	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्ट	1417			1999
63.	5900000907	20141230	लक्ष्मी बिबरेज्स ग्राम- भाकुरा, पोस्ट- परसा, तहसील- अम्बिकापुर, जिला- सरगुजा, छत्तीसगढ़- 497001	पैकेजबंद पेय जल (पैकेजबंद प्राकृतिक मिनिरल जल के अलावा)	14543			2004
64.	5900001008	20141219	भाग्यलक्ष्मी पम्पस एण्ड एग्रो सॉल्यूशंस पंचशील गली, ब्रह्मा रोड, अम्बिकापुर, जिला- सरगुजा, छत्तीसगढ़- 497001	निमज्जनीय पम्पसेट- विशिष्ट	8034			2002

1	2	3	4	5	6	7	8	9
65.	5900001109	20150101	श्री बालमुकुंद पॉलीपैक प्रा० लि० प्लॉट नं० 1 से 7, इंडस्ट्रियल एरिया, उर्ला एक्सटेंसन, तेंदुआ स्कूल रोड, जिला- रायपुर, छत्तीसगढ़- 492099	वस्त्रादि-50 किग्रा/25 किग्रा खाद्यान पैक करने के लिए उच्च घनत्व (एच०डी०पी०ई०)/पोलीप्रोपाइ लीन (पी०पी०) के बोरे- विशिष्ट	14887			2000
66.	5900001210	20150105	बी०पी० वाटर प्लॉट ग्राम- कोकाडी, तहसील- बलोदा बाजार, जिला- बलोदा बाजार, छत्तीसगढ़- 493332	पैकेजबंद पेय जल (पैकेजबंद प्राकृतिक मिनरल जल के अलावा)	14543			2004
67.	5900001311	20150106	कृष्णा आयरन स्ट्रीप्स एण्ड ट्यूब्स प्रा० लि० प्लॉट नं० 813-821ए, उर्ला इंडस्ट्रियल एरिया, सरोरा, रायपुर, छत्तीसगढ़-493221	संरचनात्मक प्रयोग के लिये इस्पात के खोखले काट-विशिष्ट	4923			1997
68.	5900001412	20150107	बालाजी लोहा प्रा० लि० 239/248सी, उर्ला इंडस्ट्रियल एरिया, रायपुर, छत्तीसगढ़-493221	सामान्य गुणता के संरचना इस्पात-विशिष्ट	15911			2010
69.	5900001505	20150112	श्री हरदेव इंडस्ट्रीज पी०एच० नं० 39, खसरा नं० 400/1, 400/2, 401/1, 401/2, 401/3, 401/4, ग्राम-बरोडा, तहसील-तिलदा, जिला-रायपुर, छत्तीसगढ़-493885	संवातन और वर्षा के पानी के तंत्र सहित भवनों के अंदर की मिट्टी तथा अपशिष्ट निरावेशन तंत्र के लिए अनम्यकृत पीवीसी पाइपें-विशिष्ट	13592			2013
70.	5900001606	20150109	श्री राम ज्वेलर्स जी-10, जीबी प्लाजा (गिरधर भवन) सदर बाजार, रायपुर, छत्तीसगढ़-492001	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्ट	1417			1999
71.	5900001707	20150123	क्रिस्टल पॉलीवर्क्स प्रा० लि० प्लॉट नं० 638, इंडस्ट्रियल एरिया, उर्ला, रायपुर, छत्तीसगढ़-493221	विद्युत विस्थापन के लिए नाली-विशिष्ट	9537	3		1983
72.	5900001808	20150218	बजरंग बिबरेज्स ग्राम-पंडरीपानी, पोस्ट-कोड तराय, जिला-रायगढ़, छत्तीसगढ़-496001	पैकेजबंद पेय जल (पैकेजबंद प्राकृतिक मिनरल जल के अलावा)	14543			2004

1	2	3	4	5	6	7	8	9
73.	5900001909	20150219	शैलेश कुमार एण्ड ब्रोज़ सदर बाजार, रायपुर, छत्तीसगढ़-492001	स्वर्ण एवं स्वर्ण मिश्रधातुएं आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्ट	1417			1999
74.	5900002010	20150220	पी० एस० स्टील लि० ग्राम-टेदेसरा, पोस्ट-सामनी, जिला-राजनंदगांव, छत्तीसगढ़-491441	संरचनात्मक प्रयोग के लिये इस्पात के खोखले काट-विशिष्ट	4923			1997
75.	5900002111	20150223	सिंथल पॉलीमर्स प्रा० लि० 46-47, सीएसआईडीसी, इंडस्ट्रियल एस्टेट, बिरकोनी, जिला-महासमुंद, छत्तीसगढ़-493445	संवातन और वर्षा के पानी के तंत्र सहित भवनों के अंदर की मिट्टी तथा अपशिष्ट निरावेशन तंत्र के लिए अनम्यकृत पीवीसी पाइपें-विशिष्ट	13592			2013
76.	5900002212	20150218	एस० आर० सुरेश ज्वेलर्स सुमीत ज्वेलर्स के पास, मालवीय रोड, रायपुर छत्तीसगढ़-492001	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्ट	1417			1999
77.	5900002305	20150226	जे० के० लक्ष्मी सीमेंट लि० ग्राम-मालपुरी खुर्द, खसाडीह, पोस्ट-अहिवारा, तहसील-धामधा, जिला-दुर्ग, छत्तीसगढ़-490036	साधारण पोर्टलैंड सीमेंट - 43 ग्रेड-विशिष्ट	8112			2013
78.	5900002406	20150226	जे के लक्ष्मी सीमेंट लि० ग्राम-मालपुरी खुर्द, खसाडीह, पोस्ट-अहिवारा, तहसील-धामधा, जिला-दुर्ग, छत्तीसगढ़-490036	पोर्टलैंड धातुमल सीमेंट	455			1989
79.	5900002507	20150226	जे के लक्ष्मी सीमेंट लि० ग्राम-मालपुरी खुर्द, खसाडीह, पोस्ट-अहिवारा, तहसील-धामधा, जिला-दुर्ग, छत्तीसगढ़-490036	पोर्टलैंड पोजोलाना सीमेंट - विशिष्ट	1489	1		1991
80.	5900002608	20150305	नूतन इस्पात एंड पावर (प्रा०) लि० ग्राम-जरौडा, पोस्ट-जरौडा, खरोरा रोड, ब्लॉक धरसीवा, जिला-रायपुर, छत्तीसगढ़-493111	कंक्रीट प्रबलन के लिए उच्च शक्ति विरूपित इस्पात सरिफ एवं तार- विशिष्ट	1786			2008
81.	5900000270	20150325	ए० पी० आई० इस्पात पावरटेक (प्रा०) लि० इंडस्ट्रियल ग्रोथ सेंटर, फेज-II, सिलतारा रायपुर, छत्तीसगढ़-493111	संरचना इस्पात (साधारण गुणता) के पुनर्वैल्लन हेतु कार्बन ढलवां इस्पात इंगट, बिलेट, ब्लूम एवं स्लैब-विशिष्ट	2831			2012

1	2	3	4	5	6	7	8	9
82.	5900000281	20150325	ए० पी० आई० इस्पात पॉवरटेक (प्रा०) लि० इंडस्ट्रियल ग्रोथ सेंटर, फेज-II, सिलतारा, रायपुर, छत्तीसगढ़-493111	सामान्य संरचना इस्पात हेतु पुनर्वेल्लन के लिए कार्बन ढलवां इस्पात इंगट, बिलेट, ब्लूम एवं स्लैब-विशिष्ट	2830			2012
83.	59000002911	20150323	ए० एस० ज्वेलर्स बी-201, नहाता मार्केट, सदर बाजार, रायपुर, छत्तीसगढ़-492001	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्ट	1417			1999
84.	59000003012	20150331	इंद्रा पी० वी० सी० प्रा० लि० ग्राम-भगवानपुर, तहसील- अम्बिकापुर, प्लॉट नं० 127, जिला-सरगुजा, छत्तीसगढ़-497001	बोर-नलकूपों के लिए अनम्यकृत पी० वी० सी० जाली और आवरक पाइप- विशिष्ट	12818			2010
85.	59000003105	20150331	मारुती फेरस (प्रा०) लि० ग्राम-सरोरा, धरसीवा, रायपुर, छत्तीसगढ़-493221	सामान्य संरचना इस्पात हेतु पुनर्वेल्लन के लिए कार्बन ढलवां इस्पात इंगट, बिलेट, ब्लूम एवं स्लैब-विशिष्ट	2830			2012

[सं० केन्द्रीय प्रमाणन विभाग/13:11]

एस. भावाल, वैज्ञानिक-ई एवं प्रमुख

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION**(Department of Consumer Affairs)****(BUREAU OF INDIAN STANDARDS)**

New Delhi, the 11th June, 2015

S.O. 1261.—In pursuance of sub-regulation (5) of regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given below in the following schedule.

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name and Address of the party	Title of the Standard	IS No.	Part.	Sec.	Year
1	2	3	4	5	6	7	8	9
01.	5746683	20140301	Shivali Udyog (I) Limited Plot No. 3 and 4, Sector D, Urla Industrial Complex, Sarora, District: Raipur Chhattisgarh-493221	High strength deformed steel bars and wires for concrete reinforcement	1786			2008

1	2	3	4	5	6	7	8	9
02.	5752173	20140305	Rama Power and Steels Pvt. Ltd. Khasra No. 344/1, PH No. 101, Near CSEB Sub-Station, Borjhara, Raipur, Chhattisgarh-493221	Carbon steel cast billet ingots, billets, blooms and slabs for re-rolling into steel for general structural purposes	2830			2012
03.	5752678	20140310	Ganpati Ispat Plot No. 144, Sector C, Urla Industrial Area, Raipur Chhattisgarh-493221	Carbon steel cast billet ingots, billets, blooms and slabs for re-rolling into steel for general structural purposes	2830			2012
04.	5752779	20140310	Fortune Metals Limited Village Sondra Chikhali, Siltara Industrial Growth Centre, Phase II, Siltara, Raipur, Chhattisgarh-439221	Hollow steel sections for structural use	4923			1997
05.	5752880	20140310	Avinash Ispat Private Limited 200 A, Industrial Area, Urla, Raipur, Chhattisgarh-493221	Structural Steel (Ordinary Quality)- Specification	15911			2010
06.	5753267	20140313	Balajee Structurals (India) Ltd. Ring Road No. 2, Tatibandh, Raipur, Chhattisgarh	Structural Steel (Ordinary Quality)- Specification	15911			2010
07.	5753377	20140313	Shree Hanuman Loha Pvt. Ltd. Agrasen Chowk, Bajrang Nagar, Raipur, Chhattisgarh-492001	Structural Steel (Ordinary Quality)- Specification	15911			2010
08.	5753478	20140313	Radhe Hurkat Ispat Pvt. Ltd. Plot No. 735/B, Urla Industrial Area, Raipur, Chhattisgarh-493221	Powrahs	1759			1986
09.	5754783	20150314	Juneja Beverages Opp. Agrawal Lodge, Bastar Road, Dhamtari Chhattisgarh-493773	Packaged drinking water (other than packaged natural mineral water)-	14543			2004
10.	5757284	20140402	Radhe Govind Steel and Alloys Pvt. Ltd. 102, Jindal Industrial Park, Punjipathra, District-Raigarh, Chhattisgarh-496001	Carbon steel cast billet ingots, billets, blooms and slabs for re-rolling into steel for general structural purposes	2830			2012

1	2	3	4	5	6	7	8	9
11.	5757385	20140304	Harsh Vinimay Pvt. Ltd. Plot No. 121, Jindal Industrial Park, Punjipathra, District-Raigarh Chhattisgarh-496001	Carbon steel cast billet ingots, billets, blooms and slabs for re-rolling into steel for general structural purposes	2830			2012
12.	5757486	20140402	Shri Om Manufacturing (I) Pvt. Ltd. Vill Kamalpur, Vis Silphilia Kamapur District: Surguja, Chhattisgarh	Portland pozzolana cement part flyash based	1489	1		1991
13.	5757890	20140403	Green Gold Irrigation Pvt. Ltd. Khairagarh Road Dongargarh, District-Bastar, Chhattisgarh-491445	Irrigation equipment- polyethylene pipes for irrigation laterals	12786			1989
14.	5757991	20140403	Green Gold Irrigation Pvt. Ltd., Khairagarh Road, Dongargarh, District-Baster, Chhattisgarh-491445	Emitting pipes system	13488			2008
15.	5758791	20140403	Green Gold Irrigation Pvt. Ltd. Khairagarh Road, Dongargarh, District-Baster, Chhattisgarh-491445	Irrigation equipment- emitters-	13487			1992
16.	5760879	20140411	Priyanka Ind. Vill-Gangpur, P.O.-Pipriya, Tehasil-Kawardha, District-Kawardha, Chhattisgarh-491995	Packaged drinking water (other than packaged natural mineral water)-	14543			2004
17.	5763077	20140423	UB Ventures Pvt. Ltd. Plot No. 94 to 115, Industrial Area, Nayanpur, Girwarganj, Surajpur, District-Surguja, Chhattisgarh-497229	High strength deformed steel bars and wires for concrete reinforcement	1786			2008
18.	5763178	20140423	Jindal Steel and Power Ltd. Post Box No. 16, Kharsia Road District-Raigarh, Chhattisgarh-496001	Hot rolled steel flat products for structural forming and flanging purposes-	5986			2002

1	2	3	4	5	6	7	8	9
19.	5763279	20140428	Real Ispat and Power Limited Urla-Bendri Road, Borjhara, District-Raipur, Chhattisgarh-493221	Mild Steel wire for general engineering purposes	280			2006
20.	5764079	20140501	Gravity Ferrous Pvt. Ltd. 259/9, Kanhera Road, Vill-Achholi, Dharsiva Mandal, Urla, Raipur, Chhattisgarh-492023	High Strength deformed steel bars and wires for concrete reinforcement	1786			2008
21.	5764887	20140506	Sinthal Poolymers I/A, Birkoni, District-Mahasamund Chhattisgarh-493445	Unplasticized PVC Pipes for Potable Water Supplies- Specification	4985			2000
22.	5764988	20140506	Sinthal Poolymers I/A, Birkoni, District-Mahasamund Chhattisgarh-493445	Specification for unplasticized PVC screen and caring pipes for bore/tubewell	12818			2010
23.	5767388	20140516	Om Shree Rupesh Steel Pvt. Ltd. Vill-Chiraipani, Tehasil-Raigarh, District-Raigarh Chhattisgarh	Carbon steel cast billet ignots, billets, blooms and slabs for re-rolling into low tensile structural steel- Specification	2831			2012
24.	5768592	20140520	Crest Steel and Power Pvt. Ltd. Vill-Joratarai, P.O. Mangatta, District, Rajnanadgaon, Chhattisgarh-491441	Carbon steel cast billet ignots, billets, blooms and slabs for re-rolling into low tensile structural steel- Specification	2831			2012
25.	5768693	20140520	Topworth Steel and Power Ltd. Boral, Industrial Growth Centre, Village Rasmada, District-Durg, Chhattisgarh-491001	Carbon steel cast billet ignots, billets, blooms and slabs for re-rolling into low tensile structural steel- Specification	2831			2012
26.	5768996	20140505	Maa Mani Industries Pvt. Ltd. Vill-Natwarpur, Tehasil-Raiarh, District-Raigarh Chhattisgarh-496001	Carbon steel cast billet ignots, billets, blooms and slabs for re-rolling into low tensile structural steel- Specification	2831			2012

1	2	3	4	5	6	7	8	9
27.	5769089	20140530	Real Ispat and Power Limited, Urla Division Plot No. 317 to 321 and 356-360, Sector C, Urla Industrial Area, Raipur, Chhattisgarh-493221	Hot Rolled Medium and High Tensile Structural Steel-Specification	2062			2011
28.	5769695	20140616	M/s Malti Industries In Front of Power House Rani Durgawati Chowk, Pendra Road, Bilaspur, Chhattisgarh-495117	Packaged drinking water (other than packaged natural mineral water)-	14543			2004
29.	5771076	20140616	Jindal Steel and Power Limited Post Box No. 16, Kharsia Road, District-Raigarh, Chhattisgarh-496001	53 grade ordinary portland cement	12269			1987
30.	5771177	20140616	Jindal Steel and Power Limited Post Box No. 16, Kharsia Road, District-Raigarh, Chhattisgarh-496001	43 grade ordinary portland cement	8112			2013
31.	5771379	20140509	Epic Alloy Steel Pvt. Ltd. 132 D, Jindal Industrial Park, Punjipathra, District-Raigarh, Chhattisgarh-496111	Carbon steel cast billet ingots, billets, blooms and slabs for re-rolling into steel for general structural purposes	2830			2012
32.	5778595	20140807	Anjani Steels Ltd., Vill-Ujalpur, Post-Gerwani, Tehasil-Ghargora, District-Raigarh, Chhattisgarh-496001	Carbon steel cast billet ingots, billets, blooms and slabs for re-rolling into steel for general structural purposes	2830			2012
33.	5778696	20140725	Balajee Structurals (India) Limited Ring Road No. 2, Tatibandh District-Raipur Chhattisgarh	Carbon steel cast billet ingots, billets, blooms and slabs for re-rolling into steel for general structural purposes	2830			2012
34.	5782990	20140807	P.S. Steel Tubes Ltd., Vill. Tedesara, P.O. Somni, Distict: Rajnandgaon, Chhattisgarh-491441	Steel tubes for mechanical and general engineering purposes	3601			2006

1	2	3	4	5	6	7	8	9
35.	5785087	20140825	Vandana Global Ltd. Siltara Industrial Area, Phase II, Siltara, District: Raipur Chhattisgarh-493221	High strength deformed steel bars and wires for concrete reinforcement	1786			2008
36.	5786190	20140827	Shri Bajrang Power Ispat Ltd. Vill-Barjhara, Guma Road, Industrial Area, Raipur, Chhattisgarh-493221	High strength deformed steel bars and wires for concrete reinforcement	1786			2008
37.	5786796	20140828	Shri Hardeo Industries P.H. No. 39, Khasra No. 400/1, 400/2, 401/1, 401/2, 401/3, 401/4, Vill-Baronda, Tehsil-Tilda, Raipur Chhattisgarh-493885	Unplasticized polyvinyl chloride (upvc) injection moulded fittings for soil and waste discharge system for inside and outside buildings including ventilation and rain water system	14735			1999
38.	5786897	20140826	Agrawal Channel Mills Pvt. Ltd. Plot No. 34-35, Phase-II, Industrial Growth Centre, Siltara, Dharsiva Block, Raipur, Chhattisgarh-493111	Hot Rolled Medium and High Tensile Structural Steel- Specification	2062			2011
39.	5787697	20140828	Vaytree Industries Vill-Padmi, Post-Bemetara, Tahsil-Than Khamriya, District-Kawardha, Chhattisgarh-491335	Packaged drinking water (other than packaged natural mineral water)-	14543			2004
40.	5787798	20140901	Sradha Saburi Enterprises Satyam Bihar, Raipur Chhattisgarh-492013	Packaged drinking water (other than packaged natural mineral water)-	14543			2004
41.	5792084	20140826	Shriram Rolling Mill Plot No. 13-B (Part), Industrial Area, Rawabhata, Block Dharsiva, Raipur, Chhattisgarh-492001	Carbon steel cast billet ingots, billets, blooms and slabs for re-rolling into steel for general structural purposes	2830			2012

1	2	3	4	5	6	7	8	9
42.	5796799	20140901	Gravity Ferrous Pvt. Ltd. 259/9, Kanhera Road, Vill-Accholi Dharsiva Mandal, Urla, Raipur, Chhattisgarh-492023	Carban steel cast billet ignots, billets, blooms and slabs for re-rolling into low tensile structural steel-	2831			2012
43.	5797094	20140917	Shri Hardeo Industries P.H. No. 39, Khasra No. 400/1, 400/2, 401/1, 401/2, 401/3, 401/4, Vill.-Baronda, Tehsil-Tilda, District-Raipur, Chhattisgarh-493885	Unplasticized PVC Pipes for Potable Water Supplies-Specification	4985			2000
44.	5798403	20140915	Vandana Global Ltd. Siltara Industrial Area, Phase II, Siltara, Raipur Chhattisgarh-493221	Hot Rolled Medium and High Tensile Structural Steel-Specification	2062			2011
45.	5798909	20140917	Ishwar Ispat Industries (P) Ltd. Plot No. 168, Urla Industrial Complex, Urla, Raipur, Chhattisgarh-493221	Hot Rolled Medium and High Tensile Structural Steel-Specification	2062			2011
46.	5799910	20140924	Steel Authority of India Ltd. Bhilai Steel Plant, Bhilai, District-Durg, Chhattisgarh-490001	Steel ingots, blooms and billets for production of mild steel wire rods for general engineering purposes	8952			1995
47.	5801665	20140924	Amarchand Ganeshmal Sadar Bazar, Raipur Chhattisgarh-492001	Gold and gold alloys, jewellery/artefacts-fineness and marking-	1417			1999
48.	5803568	20141009	Vikas Industry 32/2, Mukesh Nikunj, Behind BJP Office, Civil Line, Baloda Bazar, Chhattisgarh-493332	Packaged drinking water (other than packaged natural mineral water)-	14543			2004
49.	5804570	20141013	Shree Ji Minerals & Nutrients At - Doude-Khurd, Baloda Bazar Road, Chhattisgarh-493332	Common salt - iron fortified	12981			1991

1	2	3	4	5	6	7	8	9
50.	5812468	20141020	Zeon Sponge & Power (P) Ltd. Vill.-Amlidih, Post-Bhalumar, District-Raigarh Chhattisgarh-496001	Carbon steel cast billet ingots, billets, blooms and slabs for re-rolling into steel for general structural purposes	2830			2012
51.	5812670	20141111	Supreme Industries Plot No. 12/F & F1, Heavy Industrial Area - Hathkhaj, Bhilai, District-Durg, Chhattisgarh-490024	Naphthalene	539			1974
52.	5812771	20141112	Gujarat Timber Industries Pvt Ltd 80, Industrial Area, Urla, Raipur Chhattisgarh-493221	Block boards	1659			2004
53.	5812872	20141112	Gujarat Timber Industrial Pvt. Ltd. 80, Industrial Area, Urla, Raipur, Chhattisgarh-493221	Plywood for general purposes	303			1989
54.	5819482	20141128	Rigga PVC Industries Plot No. 27-28 (Part), Bhanpuri Industrial Area, Raipur Chhattisgarh-492001	Conduits for electrical installations: part 3 rigid plain conduits of insulating materials (superseding is: 2509)	9537	3		1983
55.	5900000107	20141203	Ashok Jindal Plywood Pvt. Ltd. Ph. No. 10/13, Khasra No. 160,161 162, 163/1, 163/2,16 4, 165 167 & 168 Vill.-Mohkakhurd, Tehsil - Patan, Bhilai District- Durg, Chhattisgarh-490006	Plywood for general purposes	303			1989
56.	5900000208	20141203	Regal Products 835/61, Ram Nagar, Gali No.2, Raipur Chhattisgarh-492001	Packaged drinking water (other than packaged natural mineral water)-	14543			2004
57.	5900000309	20141203	Ravi Jewellers C-203, Nahata Market, Sadar Bazar, Raipur, Chhattisgarh-492001	Gold and gold alloys, jewellery/artefacts-fineness and marking-	1417			1999

1	2	3	4	5	6	7	8	9
58.	5900000410	20141205	Padmini Jewellers 128, S.S. Plaza, P.H. Road, Korba, Chhattisgarh-495678	Gold and gold alloys, jewellery/artefacts- fineness and marking-	1417			1999
59.	5900000511	20141218	Shubh Designer Jewellery, Baid Market, Sadar Bazar, Raipur, Chhattisgarh-492001	Gold and gold alloys. jewellery/artefacts- fineness and marking- Specification	1417			1999
60.	5900000612	20141217	Surva Minerals Vill.- Bayang, Post. - Nandeli, District-Raigarh Chhattisgarh-496001	Packaged drinking water (other than packaged natural mineral water)-	14543			2004
61.	5900000705	20141219	Manu Bhai Jewellers Kotwali Chowk, Sadar Bazar, Raipur Chhattisgarh	Gold and gold alloys, jewellery/artefacts- fineness and marking- Specification	1417			1999
62.	5900000806	20141219	Arihant Jewellers Gandhi War, Mahaveer Swami Chowk, Mungeli, Chhattisgarh-495334	Gold and gold alloys, jewellery/artefacts- fineness and marking- Specification	1417			1999
63.	5900000907	20141230	Laxmi Beverages Vill.- Bhakura, P.O. - Parsa, Tehsil-Ambikapur, District-Surguja, Chhattisgarh-497001	Packaged drinking Water (other than packaged natural mineral water)-	14543			2004
64.	5900001008	20141219	Bhagyalaxmi Pumps & Agro Solution Panchsheel Gali, Bramha Road, Ambikapur District - Surguja, Chhattisgarh-497001	Submersible pumpsets Specification	8034			2002
65.	5900001109	20150101	Sri Balmukund Poly pack Pvt. Ltd. Plot No. 1 to 7, Industrial Area, Urla Extension, Tendua School Road, Tendua School road, District, Raipur- Chhattisgarh-492099	Textiles-high density polyethylene (hdpe)/polypropylene (pp) woven sacks for packing 50 kg/25 kg foodgrains-Specification	14887			2000
66.	5900001210	20150105	B.P. Water Plant Vill. - Kokadi, Tehsil- Baloda Bazar, District-Baloda Bazar, Chhattisgarh-493332	Packaged drinking water (other than packaged natural mineral water)-	14543			2004

1	2	3	4	5	6	7	8	9
67.	5900001311	20150106	Krihna Iron Strips and Tubes Pvt. Ltd. Plot No. 813-821A, Urla Industrial Area, Sarora, Raipur Chhattisgarh-493221	Hollow steel sections for structural use-Specification	4923			1997
68.	5900001412	20150107	Balajee Loha Pvt Ltd 239/248C, Urla, Industrial Area Raipur, Chhattisgarh-493221	Structural Steel Ordanery Quality Specification	15911			2010
69.	5900001505	20150112	Shri Hardeo Industries P.H. No. 39, Khasra No. 400/1, 400/2 401/1, 401/2, 401/3, 401/4, Vill.- Baronda, Tehsil-Tilda, Raipur, Chhattisgarh-493885	Specification for UPVC pipes for soil and waste discharge systems inside building including ventilation and rainwater system	13592			2013
70.	5900001606	20150109	Shri Ram Jewellers G-10, G B Plaza (Girdhar Bhawan), Sadar Bazar, Raipur, Chhattisgarh-492001	Gold and gold alloys, jewellery/artefacts-fineness and marking-Specification	1417			1999
71.	5900001707	20150123	Crystal Polyworks Pvt. Ltd. Plot No. 638, Industrial Area, Urla, Raipur, Chhattisgarh-493221	Conduits for electrical installations: part 3 rigid plain conduits of insulating materials (superseding is:2509)	9537	3		1983
72.	5900001808	20150218	Bajrang Beverages Vill.-Pandripani, Post-Kond Tarai, District - Raigarh Chhattisgarh-496001	Packaged drinking water (other than packaged natural mineral water)-	14543			2004
73.	5900001909	20150219	Shailesh Kumar & Bros Sadar Bazar, Raipur Chhattisgarh-492001	Gold and gold alloys, jewellery/artefacts-fineness and marking-Specification	1417			1999
74.	5900002010	20150220	P.S. Steel Tubes Ltd. Vill.-Tedesara, Post. - Somni, District-Rajnandgaon Chhattisgarh-491441	Hollow steel sections for structural use-Specification	4923			1997
75.	5900002111	20150223	Sinthal Poolymers Pvt. Ltd. 46-47, CSIDC Industrial Estate, Birkoni, District-Mahasamund, Chhattisgarh-493445	Specification for UPVC pipes for soil and waste discharge systems inside buildings including ventilation and rainwater system	13592			2013

1	2	3	4	5	6	7	8	9
76.	5900002212	20150218	SR Suresh Jewellers Near, Sumeet Jewellers, Malviya Road, Raipur Chhattisgarh-492001	Gold and gold alloys, jewellery/artefacts- fineness and marking- Specificaties	1417			1999
77.	5900002305	20150226	JK Lakshmi Cement Ltd Vill.-Malpuri Khurd, Khasadih, Post-Ahiwara, Tehsil-Dhamdha, District-Durg, Chhattisgarh-490036	43 grade ordinary portland cement	8112			2013
78.	5900002406	20150226	JK Lakshmi Cement Ltd Vill.-Malpuri Khurd, Khasadih, Post-Ahiwara, Tehsil-Dhamdha, District-Durg, Chhattisgarh-490036	Specification for Portland slag cement	455			1989
79.	5900002507	20150226	JK Lakshmi Cement Ltd Vill.-Malpuri Khurd, Khasadih, Post-Ahiwara, Tehsil-Dhamdha, District-Durg, Chhattisgarh-490036	Portland pozzolana cement part 1 flyash based	1489	1		1991
80.	5900002608	20150305	Nutan Ispat & Power (P) Ltd. Village-Jarouda, Post Jarouda, Kharora Road, Block Dharshiwa District: Raipur, Chhattisgarh-493111	High strength deformed steel bars and wires for concrete reinforcement	1786			2008
81.	5900002709	20150325	API Ispat and Powertech (P) Ltd. Industrial Growth Centre, Phase-II Siltara, Raipur Chhattisgarh-493111	Carbon steel cast billet ignots, billets, blooms and slabs for re-rolling into low tensile structural steel-	2831			2012
82.	5900002810	20150325	API Ispat and Powertech (P) Ltd Industrial Growth Centre, Phase-II, Siltara, Raipur Chhattisgarh-493111	Carbon steel cast billet ingots, billets, blooms and slabs for re-rolling into steel for general structural purposes	2830			2012

1	2	3	4	5	6	7	8	9
83.	5900002911	20150323	A.S. Jewellers B-201, Nahata Market, Sadar Bazar, Raipur Chhattisgarh-492001	Gold and gold alloys, jewellery/artefacts- fineness and marking-	1417			1999
84.	5900003012	20150331	Indra PVC Pvt. Ltd. Village Bhagwanpur, Tehsil-Ambikapur, Plot No. 127, District-Surguja Chhattisgarh-497001	Specification for unplasticized PVC Screen and casing pipes for bore/tubewell	12818			2010
85.	5900003105	20150331	Maruti Ferrous (P) Ltd. Gram-Sondra, Dharsiva, Raipur, Chhattisgarh-493221	Carbon steel cast billet ingots, billets, blooms and slabs for re-rolling into steel for general structural purpose	2830			2012

[No. CMD/13:11]

S. BHOWAL, Scientist-E & Head

नई दिल्ली, 11 जून, 2015

का.आ. 1262.—भारतीय मानक ब्यूरो (प्रमाणन विनियम, 1988 के विनियम 4 के उपविनियम 5 के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिनके विवरण नीचे अनुसूची में दिए गए हैं, को लाइसेंस रद्द किए गए हैं:

अनुसूची

क्रम सं०	लाइसेंस नं०	लाइसेंसधारी का नाम एवं पता	लाइसेंस के अंतर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक	रद्द/स्थगित करने की तिथि
NIL	NIL	NIL	NIL	NIL

[सं. केन्द्रीय प्रमाणन विभाग/13:11]

एस भावाल, वैज्ञानिक-ई एवं प्रमुख

New Delhi, the 11th June, 2015

S.O. 1262.—In pursuance of sub-regulation (6) of regulation 5 of the Bureau of Indian Standards (Certification) Regulations 1988 of the Bureau of Indian Standards, hereby notifies the licences particulars of which are given below have been cancelled/suspended with effect from the date indicated against each.

SCHEDULE

Sl. No.	Licences No. CML-	Name & Address of the Licensee	Article/Process with relevant Indian Standards covered by the licence cancelled/suspension	Date Cancellation
NIL	NIL	NIL	NIL	NIL

[No. CMD/13:11]

S. BHOWAL, Scientist-E & Head

नई दिल्ली, 19 जून, 2015

का.आ. 1263.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 4 के उपविनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं:—

अनुसूची

क्रम संख्या	लाइसेंस संख्या	स्वीकृति करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम एवं पता	भारतीय मानक का शीर्षक	भामा सं./भाग/खण्ड/वर्ष
1	2	3	4	5	6
1.	7800000908	02/03/2015	गुरुकृपा इरीगेशन प्रा० लि० प्लॉट सं० डी - 102, एमआईडीसी एरिया, अवधान, धुले - 424001	सिंचाई उपस्कर - सिंचाई लैटरलों हेतु पॉलीथिलीन पाईप	भा० मा० 12786 : 1989
2.	7800001009	02/03/2015	गुरुकृपा इरीगेशन प्रा० लि० प्लॉट सं० डी - 102, एमआईडीसी एरिया अवधान, धुले - 424001	उत्सर्जन पाईप प्रणाली	भा० मा० 13488 : 2008
3.	7800001110	03/03/2015	सरस्वती वायर एवं केबल्स इण्डस्ट्रीज प्लॉट सं० सी - 1, क्रम सं० 4712, वेवूर गांव, पोस्ट, मनोर रोड, पालधर, पूर्व, जिला, ठाणे-401 404	1100 वो तक एवं सहित कार्यकारी वोल्टता के लिए पी वी सी रोधित केबल	भा० मा० 694 : 1990
4.	7800001211	03/03/2015	मंगल पॉलीसैक प्रा० लि० बी-144/133, स्टाइस मुसलगांव, तालुका: सिन्नर जिला : नासिक - 422103 महाराष्ट्र	वस्त्रादि-जल अवरोधक परत चढ़ा उच्च घनव पालीइथाइलीन (एच०डी०पी०ई०) का बुना हुआ कपड़ा (भू-मेम्बरेन)	भा० मा० 15351 : 2008
5.	7800001312	04/03/2015	फयूजन अप्लाईअंसेस यूनिट सं० 14 15, बिल्डिंग सं० डी 8, भूमी वर्ड, पिम्पलास गांव, नासिक बाय पास रोड, नेशनल हाईवे 3, भिवण्डी, जिला ठाणे-421302	बिजली के घरेलू खाद्य मिक्सर (द्रवीपर और ग्राइडर)	भा० मा० 4250 : 1980
6.	7800001607	09/03/2015	रविकिरण मार्केटिंग एण्ड इन्फ्रास्ट्रक्चर डेवलपमेंट प्रा० लि०, गट सं० 328/1, एन०एच० सं० 3, सरवद गांव, जिला धुले-424307	मलाईरहित दूध पावडर	भा० मा० 13334 : भाग 1 1980
7.	7800001413	10/03/2015	गंधालीकर एग्रीटेक प्रा० लि० प्लॉट सं० टी - 15, बाभले फाटा, नरदोना एमआईडीसी, शिंदखेडा, धुले 424309	उत्सर्जन पाईप प्रणाली	भा० मा० 13488 : 2008

1	2	3	4	5	6
8.	7800001514	10/03/2015	गंधालीकर एग्रीटेक प्रा० लि० प्लॉट सं० टी - 15, बाभले फाटा, नरदोना एमआईडीसी, शिंदखेडा, धुले 424309	सिंचाई उपस्कर - सिंचाई लैटरलों हेतु पॉलीथिलीन पाईप	भा० मा० 12786 : 1980
9.	7800001708	17/03/2015	माइक्रो अप्लाईअंसेस 1/6, पुराना सिद्धार्थ नगर, प्रबोधन क्रीडा मार्ग रोड सं० 9, गोरेगांव पश्चिम मुंबई-400104	बिजली के घरेलू खाद्य मिक्सर (द्रवीपर और ग्राइंडर)	भा० मा० 4250 : 1980
10.	7800001809	17/03/2015	डयूरेंबल होम अप्लाईअंसेस 110-111, कमला भवन, शर्मा इण्ड. इस्टेट, गोरेगांव पूर्व, मुंबई-400063	बिजली के घरेलू खाद्य मिक्सर (द्रवीपर और ग्राइंडर)	भा० मा० 4250 : 1980
11.	7800002314	17/03/2015	विजय सब्जे सेफटी लि० (यूनिट 1) प्लॉट सं० 11, सर्वे सं० 46/1 पी, दमन गंगा इण्ड. इस्टेट, अथल सिलवासा भिलाड रोड सिलवासा-396230 दादरा नगर हवेली	श्वसन संरक्षी उपकरण में प्रयुक्त गैस फिल्टर और यौगिक फिल्टर	भा० मा० 15323 : 2003
12.	7800001910	18/03/2015	मॅगनम मेडिकेयर प्रा० लि० यूनिट सं० 21,22,23 तल मंजिल सुप्रिम इस्टेट, सर्वे सं० 14, एच० सं० 2, देवदल गांव, वसई पूर्व जिला ठाणे, महाराष्ट्र-401203	चिकित्सा वस्त्रादि - शल्यक मुखिका नकाब	भा० मा० 16289 : 2014
13.	7800002011	19/03/2015	आदिनाथ केबल्स प्लॉट सं० 86, दिवान एण्ड सन्स इण्ड. इस्टेट, अलियाली गांव, पालघर-401404	1100 वोल्ट तक कार्यकारी वोल्टता के के लिए पी वी सी रोधित (भारी ड्यूटी) विद्युत केबल	भा० मा० 1554 (भाग 1 1) : 1988
14.	7800002112	23/03/2015	सूरज प्लास्ट प्लॉट सं० 124, चिखलोली एमआईडीसी, अंबरनाथ इण्ड. एरीया, अंबरनाथ पश्चिम जिला ठाणे-421505	विद्युत संस्थापनों के लिए नलिकाएं भाग 3 विद्युतरोधी सामग्री के दृढ़ सादे इस्पात नलिकाएं	भा० मा० 9537 : भाग 3 1983
15.	7800002213	24/03/2015	केमट्रोल इण्डस्ट्रीज लि० प्लॉट सं० आर 24, एमआईडीसी, रबाले, टीटीसी इण्ड. एरीया, ठाणे बेलापुर रोड, नवी मुंबई-400701	एक्सप्लोसिव ऐटमॉस्फिअर्स - भाग - 1 फ्लेमप्रूफ इनक्लोजर 'डी' द्वारा उपस्कर संरक्षा	भा० मा०/आयईसी 60079: भाग - 1 2007

1	2	3	4	5	6
16.	7800002407	31/03/2015	ऐश्वर्या इण्डस्ट्रीज गाला सं ए 18, डिसिल्वा बाग अंधेरी घाटकोपर लिंक रोड, असल्फा घाटकोपर पश्चिम मुंबई-400 084	बिजली के घरेलू खाद्य मिक्सर (द्रवीपर और ग्राइंडर)	भा० मा० 4250 : 1980
17.	7800002508	31/03/2015	जी नाइन मोडयूलर प्रालि० यूनिट II प्लॉट सं 11/12, सर्वे सं 77/2, सातीवली रोड, इण्ड. इस्टेट के पीछे, वालीव फाय वसई, जिला ठाणे-401208	विद्युत प्रयोजनों के लिए दाब सुग्राही आसंजनशील विद्युतरोधी टेप - भाग 3: (भाग 3): खंड 1: 1986 अलग अलग सामग्रियों की अपेक्षाएं खंड 1: अतापमापी आसंजनशील वाले सुघट्यत पॉलीविनाइलक्लोराइड टेप	भा० मा० 7809
18.	7800002609	31/03/2015	ऑमकार इलेक्ट्रॉनिक्स, बी - 62, अपर अंबरनाथ, एमआईडीसी, आनंदनगर, अंबरनाथ पूर्व ठाणे-421506	1100 वो तक एवं सहित कार्यकारी वोल्टता के लिए पी वी सी रोधित केबल	भा० मा० 694: 1990
19.	7800002710	31/03/2015	डेकोर इलेक्ट्रीकल्स रेड्डी कंपाउण्ड, वलनाई कालोनी, टेरेस स्कूल के सामने, मालाड पश्चिम मुंबई-400 064	घरेलू और समान प्रयोजनों के लिए स्विच	भा० मा० 3854 : 1997

[सं० केंद्रीय प्रमाणन विभाग/13:11]
टी० कलैवाणन, प्रमुख (एमयूबीओ - ईईई)

New Delhi, the 19th June, 2015

S.O. 1263.—In pursuance of sub-regulation (5) of regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the **grant of licences** particulars of which are given in the following schedule:

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name and address (factory) of the party	Product	IS No./Part./Sec. Year
1	2	3	4	5	6
1.	7800000908	02/03/2015	Gurukripa Irrigation Pvt. Ltd. Plot No. S-102 MIDC Area, Awadhan Dhule - 424001	Irrigation equipment - polyethylene pipes for irrigation laterals-	IS 12786 : 1989
2.	7800001009	02/03/2015	Gurukripa Irrigation Pvt. Ltd. Plot No. D-102, MIDC Area, Awadhan, Dhule - 424001	Emmitting pipes system	IS 13488 : 2008
3.	7800001110	03/03/2015	Saraswati Wires & Cables Industries Plot No. C-1, Sl. No. 47/2, Vevoor Village Post Manor Road, Palghar (E) Thane - 401404	PVC Insulated Cables for Working Voltages upto and including 1100 V IS 694 : 1990	IS 694 : 1990

1	2	3	4	5	6
4.	7800001211	03/03/2015	Mangal Ploysacks Pvt. Ltd B-144/133, Stice Musalgaon Tal:Sinnar Dist: Nashik - 422103 Maharashtra	Textiles - laminated high density polyethylene (hdpe) fabric for canal lining -	IS 15351 : 2008
5.	7800001312	04/03/2015	Fusion Appliances LLP Unit No. 14/15, BLDG No. D-8, Bhumi World, At pimplas Village, Nashik by Pass Road (NH 3), Bhiwandi Distt : Thane - 421302	Domestic Electric Food-Mixers (Liquidizes and Grinders)	IS 4250 : 1980
6.	7800001607	09/03/2015	Ravikiran Marketing & Infrastructurer Dev Pvt Ltd Gat No. 328/1/1, N.H. 3, Village Sarvad, Distt: Dhule-424307	Skimmed milk powder - part 1: standard grade	IS 13334:Part1:2014
7.	7800001413	10/03/2015	Gandhalikar Agrotech Pvt Ltd Plot No. T-15, Babhale Phata, Nardana MIDC, Shindkheda Dhule - 424309	Emitting pipes system	IS 13488 : 2008
8.	7800001514	10/03/2015	Gandhalikar Agrotech Pvt Ltd Plot No. T-15, Babhale Phata, Nardana MIDC, Shindkheda Dhule - 424309	Irrigation equipment - polyethylene pipes for irrigation laterals-	IS 12786 : 1989
9.	7800001708	17/03/2015	Micro Appliances 1/6, Old Siddharth Nagar, Prabhodhn Krida Marg, Road No. 9 Goregaon West, Mumbai - 400104	Domestic Electric Food-Mixers (Liquidizes and Grinders)	IS 4250 : 1980
10.	7800001809	17/03/2015	Durable Home Appliances 110-111, Kamala Bhawan, Sharma Indl. Estate, Goregaon (E), Mumbai - 400063	Domestic Electric Food-Mixers (Liquidizes and Grinders)	IS 4250 : 1980
11.	7800002314	17/03/2015	Vijay Sabre Safety Limited (Unit-1) Plot No. 11, Survey No. 46/1 P, Daman Ganga Industrial Estate, Athal, Silvassa-Bhilad Road, Silvassa - 396230 Distt : Dadra and Nagar Haveli,	Gas filters and combined filters used in Respiratory protective . equipment	IS 15323 : 2003
12.	7800001910	18/03/2015	Magnum Medicare Pvt. Ltd. Unit No. 21,22,23, Ground Floor, Supreme Estate, Survey No. 14, H. No. 2, Village Devdal, Vasai - East Dist. Thane, Maharashtra - 401203	Medical Textiles - Surgical Face Masks	IS 16289 : 2014

1	2	3	4	5	6
13.	7800002011	19/03/2015	Aadinath Cables Plot No. 86, Dewan & Sons, Industrial Estate, Village Aliyali, Palghar, Thane - 401404	Pvc insulated (heavy duty) electric cables: part 1 for working voltages upto and including 1 100 v	IS 1554:Part 1:1988
14.	7800002112	23/03/2015	Suraj Plast Plot No. 124, Chikhholi MIDC, Ambernath Indl Area, Ambernath (W) Distt: Thane-421505	Conduits for electrical installations: Part 3 Rigid plain conduits of insulating materials.	IS 9537:Part 3:1983
15.	7800002213	24/03/2015	Chemtrols Industries Limited Plot No. R 24, MIDC, Rabale, TTC Industrial Area, Thane- Belapur Road, Navi Mumbai-400701	Explosive atmospheres part I equipment protection by flameproof enclosures "d"	IS/IEC 60079: Part 1 2007
16.	7800002407	31/03/2015	Aishwarya Industries Gala No. A/8, D-Silva Baug, Andheri- Ghatkopar Link Road, Asalfa, Ghatkopar (W) Mumbai - 400084	Domestic Electric Food-Mixers (Liquidizes and Grinders)	IS 4250:1980
17.	7800002508	31/03/2015	G. Nine Modular Pvt. Ltd. - Unit II Plot No. 11/12, Survey No. 77/2, Sativali Road, Behind Indl Estate, Waliv Phata, Vasai Distt: Thane - 401208	Pressure sensitive adhesive insulating tapes for electrical purposes - part 3: requirements for individual materials - section 1: plasticized polyvinylchloride tapes with non-thermosetting adhesive	IS 7809:Part 3: Sec 1 1986
18.	7800002609	31/03/2015	Omkar Electronics B-62, Additional Ambernath MIDC, Anandnagar, Ambernath (E) Distt:Thane - 421506	PVC insulated cables for working Voltages upto and including 1100 V IS 694:1990	IS 694 : 1990
19.	7800002710	31/03/2015	Decore Electricals Reddy Compound, Valnai Colony, Opp: Terace School, Malad (W), Mumbai - 400064	Switches for domestic and similar purposes	IS 3854:1997

[No. CMD/13:11]

T. KALAIVANAN, Head (MUBO-EEE)

नई दिल्ली, 19 जून, 2015

का.आ. 1264.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 5 के उपविनियम (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे रद्द कर दिए गए हैं:—

अनुसूची

क्रम संख्या	लाइसेंस संख्या	लाइसेंसधारी का नाम एवं पता	लाइसेंस के अंतर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक	रद्द करने की तिथि
1.	3822259	गोल्ड ऑयल कार्पोरेशन (सिलवासा) प्लॉट सं० 5, सर्वे सं० 207/5, विलेज उमरकुल सिलवासा - 396230	भा० मा० 335:199 नये विद्युत रोधन तेल	04/03/2015

[सं० केंद्रीय प्रमाणन विभाग/13:13]

टी० कलैवाणन, प्रमुख (एम यू बी ओ - ईईईई)

New Delhi, the 19th June, 2015

S.O. 1264.—In pursuance of sub-regulation (6) of regulation 5 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies that the licences particulars of which are given in the following schedule have been cancelled with effect from the date indicated against each:

SCHEDULE

Sl. No.	Licence No.	Name and address of the licensee	Article/process with relevant Indian standard covered by the Licence	Date of cancellation
1.	3822259	Gold Oil Corporation (Silvassa) Plot No. 5, Survey No. 207/5, Village Umarkul, Silvassa - 396230	IS 335:1993 New insulating oils	04/03/2015

[No. CMD/13:13]

T. KALAIVANAN, Head (MUBO-EEE)

नई दिल्ली, 19 जून, 2015

का.आ. 1265.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 4 के उपविनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं:-

अनुसूची

क्रम संख्या	लाइसेंस संख्या	स्वीकृति करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम एवं पता	भारतीय मानक का शीर्षक	भामा सं./भाग/खण्ड/वर्ष
1	2	3	4	5	6
1.	7800002811	01/04/2015	फाती जनरल ईक्विपमेंट प्रा० लि० प्लॉट सं. 2 एवं 3 जवाहर इंडस्ट्रियल इस्टेट कमोटे, पनवेल जिला रायगढ़ - 4102209	एक्सप्लोसिव ऐटमैस्फेअर्स - भाग - 1 फलेमप्रूफ इनक्लोजर 'डी' द्वारा उपस्कर संरक्षा	भा०मा/आयईसी 60079: भाग - 1: 2007
2.	7800003013	13/04/2015	ऋषि टेकटेल्स लि सर्वे सं-381 जरी कोसवे रोड काचिगम दमन - 396210	कृषि और बागवानी प्रयोजन हेतु कृषि-वस्त्रादी - आभा जाली	भा०मा० 16008 : 2012
3.	7800002912	15/04/2015	स्टेलमेक लि प्लॉट सं० 14/15 एन एच सं०-8 सतीवली वसई पूर्व जिल्हा ठाणे - 401208	एसी स्टाटीक व्यटअवर मिटर, श्रेणी 1 एवं 2	भा० मा० 13779: 1999
4.	7800003308	15/4/2015	शालीमार पेन्ट्स लिमिटेड नासिक - मुबई रोड गोन्डे गांव तालुका ईगतपुरी जिला नासिक-422403	तैयार मिश्रित रंगरोगन, वायु शुष्क, लाल ओक्साईड जिंक क्रोम प्राइमिंग	भा० मा० 2074: 1992
5.	7800003114	17/4/2015	भूवाल इन्स्युलेशन केबल प्रा० लि० गाला सं० 4 एवं 5 अंकित इण्ड इस्टेट एम एल के इण्ड इस्टेट के नजदीक सतीवली हाइवे, गामदेवी, सतीवली, वसई-पूर्व, ठाणे-401208	वैलडिंग केबल्स	भा० मा० 9857: 1990
6.	7800003207	17/4/2015	सुपरटेक्स वोवन इंडस्ट्रीज़ 168/179/180, दाभेल इंडस्ट्रियल को आपरेटिव सोसाइटी लि०, दाभेल गांव जिला: दमन-396210	वस्त्रादि-50 किलोग्राम अनाज की पैकेजिंग के लिए उच्च घनत्व पॉलीथिलीन एचडीपीई पॉलीप्रोपीलीन (पीपी) बुना बोरे	भा० मा० 14887: 2014

1	2	3	4	5	6
7.	7800003409	23/4/2015	दमन पॉलीफॅब सर्वे सं० 331/1, 2, 3, 4 और 331/1ए, काचीगाम दमन-396210	वस्त्रादि-50 किलोग्राम अनाज की पैकेजिंग के लिए उच्च घनत्व पॉलीथिलीन एचडीपीई पॉलीप्रोपीलीन (पीपी) बुना बोरे	भा० मा० 14887: 2014
8.	7800003510	24/4/2015	जी-नाईन मोडुलार मॉड्यूलर प्रा० लि० प्लॉट सं० 11/12, सर्वे सं० 7712 सतीवली रोड प्राईड इण्ड इस्टेट के पीछे वालीव फाय, वसई, ठाणे-401208	1100 वो तक एवं सहित कार्यकारी वोल्टता के लिए पी वी सी रोधित केबल	भा० मा० 694: 1990
9.	7800003611	30/4/2015	ग्रासिया मेटल प्रा० लि० प्लॉट सं० 8/117/ए-2, सीमेंट फैक्टरी के नजदीक आमगाव इण्ड एरिया, तलासरी जिला: ठाणे-401106	1100 वो तक एवं सहित कार्यकारी वोल्टता के लिए पी वी सी रोधित केबल	भा० मा० 694: 1990
10.	7800003712	30/4/2015	ओसविन इंडस्ट्रीज़ जी० नं० 27/28 पहला माला, न्यू विंग पटेल इण्ड इस्टेट, दहिसर पुलिस स्टेशन के सामने, आस, एस व्ही रोड, दहिसर पूर्व मुंबई - 400068	घरेलु और समान प्रयोजनों के लिए स्विच	भा० मा० 3854: 1997

[सं० केंद्रीय प्रमाणन विभाग/13: 11]
टी. कलैवाणन, प्रमुख (एमयूबीओ-ईईई)

New Delhi, the 19th June, 2015

S.O. 1265.—In pursuance of sub-regulation (5) of regulation 4 of the Bureau of Indian Standards (Certifications) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the **grant of licences** particulars of which are given in the following schedule:

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name and address (factory) of the party	Product	IS No./Part/Sec Year
1	2	3	4	5	6
1.	7800002811	01/04/2015	Fati General Equipments Pvt. Ltd. Plot No. 2 & 3, Jawahar Indl. Estate, Kamothé, Panvel Distt: Raigad-410209	Explosive atmospheres part 1 equipment protection by flameproof enclosures "d"	IS/IEC 60079: Part I: 2007
2.	7800003013	13/04/2015	Rishi Techtex Ltd. Survey No. 381, Zari Causeway Road, Kachigam Daman-396210	Agro Textiles-Shade Nets for Agriculture Purpose	IS 16008: 2012
3.	7800002912	15/04/2015	Stelmec Limited Plot No. 14/15, N, H, No. 8, Sativali Vasai(E), Distt. Thane-401208	Ac static watt-hour meters, class 1 and 2	IS 13779: 1999
4.	7800003308	15/04/2015	Shalimar Paints Limited Nashik-Mumbai Road, Village Gonde, Tal: Igatpuri Dist: Nashik-422403	Ready mixed paint, air drying, red oxide zinc chrome, priming	IS 2074: 1992

1	2	3	4	5	6
5.	7800003114	17/04/2015	Bhuwal Insulation Cable Pvt. Ltd. Gala No. 4 & 5, Ankit Indl. Estate, Near M.L.K. Indl Estate, Sativali Highway, Gamdevi, Sativali Vasai(E) Distt-Thane-401208	Welding cables	IS 9857: 1990
6.	7800003207	17/04/2015	Supertex Woven Industries 168/179/180, Dabhel Industrial Co-op. SOC. Ltd. Village Dabhel Distt: Daman-396210	Textiles- high density polyethylene (hdpe)/ polypropylene(pp) woven sacks for packing 50 kg/25 kg foodgrains	IS14887: 2014
7.	7800003409	23/04/2015	Daman Polyfabs Survey No. 331/1, 2, 3, 4 & 331/1A, Kachigam Daman Daman & Diu-396210	Textiles- high density polyethylene (hdpe)/ polypropylene(pp) woven sacks for packing 50 kg/25 kg foodgrains	IS 14887: 2014
8.	7800003510	24/04/2015	G. Nine Modular Pvt. Ltd. - Unit II Plot No. 11/12, Survey No. 77/2, Sativali Road, Behind pride Indl. Estate, Waliv Phata Vasai Distt: Thane-401208	Pvc insulated cables for working voltages upto and including 1100v	IS 694: 2010
9.	7800003611	30/04/2015	Gracia Metals Pvt. Ltd. Plot No. 8/117/A-2, Near Cement Factory, Aamgaon Indl. Area Talasari Distt: Thane-401106	Pvc insulated cables for working voltages upto and including 1100v	IS 694: 2010
10.	7800003712	30/04/2015	Oswin Industries G. No. 27/28, First Floor, New Wing, Patel Industrial Estate, Opp Dahisar Police Station, S.V. Rd., Dahisar (E) Mumbai-400068	Switches for domestic and similar purposes	IS 3854: 1997

[No. CMD/13:11]

T. KALAIIVANAN, Head (MUBO-EEE)

नई दिल्ली, 19 जून, 2015

का.आ. 1266.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 5 के उपविनियम (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे रद्द कर दिए गए हैं:—

अनुसूची

क्रम सं.	लाइसेंस संख्या	लाइसेंसधारी का नाम एवं पता	लाइसेंस के अंतर्गत वस्तु/प्रकम सम्बद्ध भारतीय मानक का शीर्षक	रद्द करने की तिथि
1	2	3	4	5
1.	0382848	भारत बिजली लिमिटेड पोस्ट बॉक्स नं॰ 100 ठाणे बेलापुर रोड कलवा, जिला ठाणे-400601	भा॰मा॰ 335 : 199 नये विद्युत रोधन तेल	13/4/2015

1	2	3	4	5
2.	7638286	एंपायर इलैक्ट्रिकल इंडस्ट्रीज़ 101, 102, 104, 26 हेमा इंडस्ट्रियल इस्टेट सर्वोदया नगर जोगेश्वरी पूर्व, मुंबई-400060	भामा 335 : 199 नये विद्युत रोधन तेल	13/4/2015

[सं. केंद्रीय प्रमाणन विभाग/13:13]
टी० कलैवानन, प्रमुख (एमयूबीओ-ईईई)

New Delhi, the 19th June, 2015

S.O. 1266.—In pursuance of sub-regulation (6) of regulation 5 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies that the licences particulars of which are given in the following schedule have been cancelled with effect from the date indicated against each:

SCHEDULE

Sl. No.	Licence No.	Name and address of the Licensee	Article/process with relevant Indian standard covered by the Licence	Date cancellation
1.	0382848	Bharat Bijlee Ltd. P.B. No. 100, Thane-Belapur Road, Kalwa Distt: Thane-400601	IS 335 : 1993 New insulating oils	13/04/2015
2.	7638286	Empire Electrical Industries 101, 102, 104, 26 Hema Indl Estate, Sarvodaya Nagar, Jogeshwari (E) Mumbai-400060	IS 335 : 1993 New insulating oils	13/04/2015

[No. CMD/13:13]

T. KALAIVANAN, Head (MUBO-EEE)

नई दिल्ली, 22 जून, 2015

का.आ. 1267.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 4 के उपविनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं:-

अनुसूची

क्रम संख्या	लाइसेंस संख्या	स्वीकृति करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम एवं पता	भारतीय मानक का शीर्षक	भामा सं./भाग/खण्ड/वर्ष
1.	7800003813	01/05/2015	लू-मीन इंडस्ट्रीज़ गाला नं० 124 बिल्डिंग नं० 3 राज प्रभा लैंड मार्क इंडस्ट्रियल इस्टेट भोईडापाड़ा, सतीवाली रोड वसई पूर्व, जिला: ठाणे-401208	घरेलू और समान प्रयोजनों के लिए स्विच	भामा 3854 : 1997
2.	7800003914	08/05/2015	एपकोस इंडिया प्रा० लि० प्लॉट सं० ई-22 से 25 तक एमआयडीसी एरिया सातपुर जिला: नासिक-422007	एसी पावर तंत्रों के लिए स्वतः ठीक होने वाले 650 वोल्ट तक की रेटित वोल्टता के लिए पावर संधारित्र	भामा 13585 : भाग 1 1994

क्रम संख्या	लाइसेंस संख्या	स्वीकृति करने संख्या वर्ष/माह	लाइसेंसधारी का नाम एवं पता की तिथि	भारतीय मानक का शीर्षक	भामा सं./ भाग/खण्ड/ वर्ष
3.	7800004007	12/05/2015	वीर प्लास्टिक प्रा० लि० क्रम सं० 90/1 प्लॉट सं० 1 से 4 विलेज: कुंभारवाडी नारोली दादरा एवं नगर हवेली	वस्त्रादि - 50 किलोग्राम अनाज की पैकेजिंग के लिए घनत्व पॉलीथिलीन एचडीपीई पॉलीप्रोपीलीन (पीपी) बुना बोरे	भामा 14887 : 2014
4.	7800004108	12/05/2015	पदमावती इंटरप्राइजेज गाला सं० 16, पहली मंजिल, कनाल इण्ड. इस्टेट रोड सं० 6, दौलत नगर, मुंबई-400066	बिजली के घरेलू खाद्य मिक्सर (द्रवीपर और ग्राइडर)	भामा 4250 : 1980
5.	7800004209	12/05/2015	रीवा इंडस्ट्रीज गाला सं० 204, भाऊराव उद्योग नगर बी पी रोड सं० 2 भाईन्दर पूर्व जिला: ठाणे-401104	बिजली के घरेलू खाद्य मिक्सर (द्रवीपर और ग्राइडर)	भामा 4250 : 1980
6.	7800004310	13/05/2015	दर्शक इंडस्ट्रीज 16 सिंह कम्पाउण्ड जोगेश्वरी पश्चिम मुंबई-4001102	घरेलू और समान प्रयोजनों के लिए स्विच	भामा 3854 : 1997
7.	7800004411	13/05/2015	राज रतन अप्लायंसेस श्रीपल इंडस्ट्रियल इस्टेट बिल्डिंग सं० 3 विंग सी गाला सं० 17, ग्यानदीप स्कूल के नजदीक वसई पूर्व जिला: ठाणे-401208	बिजली के घरेलू खाद्य मिक्सर (द्रवीपर और ग्राइडर)	भामा 4250 : 1980
8.	7800004512	13/05/2015	पवन अप्लायंसेस गोदाम सं० ए 9 के वी कम्पाउण्ड सुंदर टावर के नजदीक, टी जे रोड अशोक गार्डन के सामने, सीवरी, मुंबई-400015	बिजली के घरेलू खाद्य मिक्सर (द्रवीपर और ग्राइडर)	भामा 4250 : 1980
9.	7800004613	15/05/2015	कोमल इंडस्ट्रीज गाला सं० 116, राज प्रभा लैंड मार्क इंडस्ट्रियल इस्टेट पहला माला, बिल्डिंग नं० 3, सतीवाली रोड वसई पूर्व, जिला: ठाणे-401208	घरेलू और समान प्रयोजनों के लिए स्विच	भामा 3854 : 1997
10.	7800004714	22/05/2015	स्पार्क ईरिगेशन प्रा० लि० गट सं० 332 तरसोद जिला: जलगांव-425003	उत्सर्जन पाईप प्रणाली	भामा 13488 : 2008
11.	7800004815	22/05/2015	ग्लोबल एंटरप्राइजेज प्लॉट सं० जे-103 एमआयडीसी जिला: जलगांव-425003	उत्सर्जन पाईप प्रणाली	भामा 13488 : 2008

क्रम संख्या	लाइसेंस संख्या	स्वीकृति करने संख्या वर्ष/माह	लाइसेंसधारी का नाम एवं पता की तिथि	भारतीय मानक का शीर्षक	भामा सं./ भाग/खण्ड/ वर्ष
12.	7800004916	22/05/2015	ग्लोबल एंटरप्राइजेज़ प्लॉट सं० जे-103 एमआयडीसी जिला: जलगांव-425003	सिंचाई उपस्कर-सिंचाई लैटरलों हेतु पॉलीथिलीन पाईप	भामा 12786 : 1989
13.	7800005009	22/05/2015	दातार नौवेऔ एनेरजेटेकनिक लि० ई-56 ग्राउंड बी एमआयडीसी अंबाड़ जिला: नासिक-422010	अवशिष्ट धारा प्रचालित परिपथ-समग्र अतिधारा सुरक्षा सहित घरेलू और समान उपयोग के लिए ब्रेकर्स	भामा 12640 : भाग 2 : 2008/आईसी 61009-1 : 1996

[सं० केंद्रीय प्रमाणन विभाग/13:11]
टी० कलैवाणन, प्रमुख (एमयूबीओ-ईईई)

New Delhi, the 22nd June, 2015

S.O. 1267.—In pursuance of sub-regulation (5) of regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the **grant of licences** particulars of which are given in the following schedule:

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name and address (factory) of the party	Product	IS No./Part/Sec/ Year
1.	7800003813	01/05/2015	LU-min Industries Gala No. 124 Building No. 3 Raj Prabha Land Mark Industrial Estate, Bhohida Pada, Sativali Road Vasai (East) Distt: Thane-401208	Switches for domestic and similar Purposes	IS 3854 : 1997
2.	7800003914	08/05/2015	Epcos India Pvt. Ltd. E-22 to 25, MIDC, Satpur Distt-Nasik-422007	Shunt capacitors of non self healing type for ac power systems having a rated voltage upto and including 650 v	IS 13585: Part I : 1994
3.	7800004007	12/05/2015	Veer Plastics Pvt. Ltd. Survey No. 90/1, Plot No. 1 to 4, Village Kumbharwadi, Naroli Dadra and Nagar Haveli-396230	Textiles - High Density Polyethylene (HDPE)/ Polypropylene (PP) Woven Sacks for packaging 50 kg. Food grains	IS 14887: 2014
4.	7800004108	12/05/2015	Padmavati Enterprises Gala No. 16, First Floor, Kanal Indl Estate, Road No. 6, Daulat Nagar, Borivali (E) Mumbai-400066	Domestic Electric Food-Mixers (Liquidizes and Grinders)	IS 4250: 1980
5.	7800004209	12/05/2015	Riva Industries Gala No. 204, Bhaurao Udyog Nagar, B.P. Cross Road No. 2 Bhayander (E) Distt-Thane-401104	Domestic Electric Food-Mixers (Liquidizes and Grinders)	IS 4250: 1980

Sl. No.	Licence No.	Grant Date	Name and address (factory) of the party	Product	IS No./Part/Sec Year
6.	7800004310	13/05/2015	Darshak Industries 16, Singh Compound, Jogeshwari (W) Mumbai-400102	Switches for domestic and similar purposes	IS 3854 : 1997
7.	7800004411	13/05/2015	Raj Ratan Appliances Shripal Industrial Estate, Bldg No. 3, Wing C, Gala No. 17, Near Gyandeep School Vasai(E) Distt. Thane-401208	Domestic Electric Food-Mixers (Liquidizes and Grinders)	IS4250: 1980
8.	7800004512	13/05/2015	Pavan Appliances Godown No. 9, K. V. Compound, Near Sunder Tower, T.J. Road, Opp: Asoke Garden, Sewree Mumbai-400015	Domestic Electric Food-Mixers (Liquidizes and Grinders)	IS4250: 1980
9.	7800004613	15/05/2015	Komal Industries Gala No. 116, Raj Prabha Land Mark Indl Estate, First Floor, Bldg. No. 3, Sativali Road Vasai(E) Distt. Thane-401208	Switches for domestic and similar purposes	IS3854: 1997
10.	7800004714	22/05/2015	Spark Irrigation Pvt Ltd. Gut No. 332, Tarsod Distt: Jalgaon-425003	Emitting pipes system	IS 13488 : 2008
11.	7800004815	22/05/2015	Global Enterprises Plot No. J-103, MIDC Distt: Jalgaon-425003	Emitting pipes system	IS 13488 : 2008
12.	7800004916	22/05/2015	Global Enterprises Plot No. J-103, MIDC Distt: Jalgaon-425003	Irrigation equipment- polyethylene pipes for irregation laterals	IS 12786 : 1989
13.	7800005009	25/05/2015	Datar Nouveau Energietechnik Limited E-56, Ground (B), MIDC AMBAD Distt: Nashik 422010	Residual current operated circuit breaking for house- hold and similar uses - part 2 circuit - breakers with integral overcurrent protection (revos)	IS 12640 : Part 2: 2008

[No. CMD/13:11]

T. KALAIVANAN, Head (MUBO-EEE)

नई दिल्ली, 22 जून, 2015

का.आ. 1268.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 5 के उपविनियम (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे रद्द कर दिए गए हैं:—

अनुसूची

क्रम संख्या	लाइसेंस संख्या	लाइसेंसधारी का नाम एवं पता	लाइसेंस के अंतर्गत वस्तु/प्रक्रम संबंध भारतीय मानक का शीर्षक	रद्द करने की तिथि
1.	2901856	भैरव इंटस्ट्रीज प्लॉट सं 24/बी, गोल्डन इंटस्ट्रीज इस्टेट सोमनाथ रोड दाभेल दमन-396210	भा० मा० 3854: 1997 घरेलू और समान प्रयोजनों के लिए स्विच	22/5/2015

[सं. केन्द्रीय प्रमाणन विभाग/13:13]
टी० कलैवाणन, प्रमुख (एमयूबीओ-ईईई)

New Delhi, the 22nd June, 2015

S.O. 1268.—In pursuance of sub-regulation (6) of regulation 5 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies that the licences particulars of which are given in the following schedule have been **cancelled** with effect from the date indicated against each.

SCHEDULE

Sl.	Licence No.	Name and address of the licence	Article/process with relevant Indian standard covered by the Licence	Date of cancellation
1.	2901856	BHAIRAV INDUSTRIES Plot no. 24/B, Golden Indl. Estate, Somnath Road, DABEL, Daman-396210	IS 3854: 1997 Switches for domestic and similar purposes	22/5/2015

[No. CMD/13:13]
T. KALAIVANAN, Head (MUBO-EEE)

वस्त्र मंत्रालय

नई दिल्ली, 19 जून, 2015

का.आ. 1269.—केन्द्रीय सरकार, (संघ के शासकीय प्रयोजनों के लिए) राजभाषा नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में वस्त्र मंत्रालय के अंतर्गत आने वाले निम्नलिखित कार्यालयों को जिसके 80% से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:—

भारतीय कपास निगम लिमिटेड,
प्लॉट नं० एस-5, केडब्ल्यूसी,
कलंबोली वेयर हाउसिंग कॉम्प्लैक्स,
कलंबोली, नवी मुंबई-412018 (महाराष्ट्र)

[सं० ई-11016/1/2011-हिंदी]

ए० मधुकुमार रेड्डी, संयुक्त सचिव

MINISTRY OF TEXTILES

New Delhi, the 19th June, 2015

S.O. 1269.—In pursuance of sub-rule (4) of Rule 10 of the Official Languages (Use for the official purpose of the Union) Rules, 1976, the Central Government, hereby notifies the following offices of the Ministry of Textiles, more than 80% staff whereof have acquired working knowledge of Hindi:

The Cotton Corporation of India Limited,
Plot No. S-5, KWC
Kalamboli Ware Housing Complex,
Kalamboli, Navi Mumbai-410218 (Maharashtra)

[No. E-11016/1/2011-Hindi]
A. MADHUKUMAR REDDY, Jt. Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 18 जून, 2015

का.आ. 1270.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय नं० 1 चंडीगढ़ के पंचाट (111/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/06/2015 को प्राप्त हुआ था।

[सं० एल-12012/60/2013-आईआर (बी-II)]
रवि कुमार, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 18th June, 2015

S.O. 1270.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government

hereby publishes the Award (Ref.111/2013) of the Cent.Govt.Indus. Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Punjab National Bank and their workman, which was received by the Central Government on 18.06.2015.

[No.L-12012/60/2013-IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT. INDUS-
TRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH**

Case No. ID No. 111 of 2013

Reference No. L-12012/60/2013/IR(B-II) dated 30-9-2013

Sh. Raj Kumar C/o Smt. Shashi Bala Singh, Shri Balaji emporium, D-329, Main Market, Sonia Vihar, 3rd Pustha Delhi-94.

Workman

Versus

1. The Deputy General Manager, Punjab National Bank, NIT, Faridabad.
2. The Chief Manager, Punjab National Bank, Bhikaji Cama Place, 7 (IR Deptt.) HQ. New Delhi.

Respondents.

Appearances

For the workman: None.
For the Management: Shri N.K. Zakhmi.

Award Passed on: 19-03-2015

Government of India Ministry of Labour *vide* notification No. L-12012/60/2013/IR (B-II) dated 30.09.2013 has referred the following dispute to this Tribunal for adjudication:

“:Whether the action of the Management of Punjab National Bank in terminating the services of Shri Raj Kumar son of late Shri Angad Singh, Ex-Peon *w.e.f.* 13-08-2007 is just and legal? What relief the workman is entitled to?”

2. Case repeatedly called. None appeared for the workman nor any claim statement has been filed. On 5.5.14 a request has been received for adjournment of the case for two months. But even after two months none appeared nor any claim statement has been failed. As per record several opportunities have been allowed to file claim statement. None appeared on behalf of the workman despite notice. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of prosecution.

3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

Chandigarh
19-03-2015

S.P. SINGH, Presiding Officer

नई दिल्ली, 18 जून, 2015

का.आ. 1271.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब एण्ड सिंध बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय नं० 1, चंडीगढ़ के पंचाट (66/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/06/2015 को प्राप्त हुआ था।

[सं० एल-12012/28/2013-आईआर(बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 18th June, 2015

S.O. 1271.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 66/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, No. 1, Chandigarh as shown in the Annexure, in the industrial dispute between the management of Punjab & Sind Bank and their workmen, received by the Central Government on 18/06/2015.

[No.L-12012/28/2013-IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRISIDING OFFICER, CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR-COURT-I, CHANDIGARH.**

Case No. ID 66 of 2013. Reference No. L-12012/28/2013-IR(B-II) dated 24.05.2013. Sh. Nishan Singh son of Shri Ram Singh R/o VPO Mothawali, Distt. Kapurthala. (Punjab)
Workman

Versus

1. The Chairman, Punjab and Sind Bank, Cannaught Place, 24, Rajinder Place, New Delhi.
2. The Zonal Manager, Punjab & Sind Bank, Local H.Q. Sector-17, Chandigarh.
3. The Divisional General Manager, Punjab & Sind Bank, Model Town, Jalandhar, Distt. Jalandhar (Punjab).
4. The Manager Security, Punjab & Sind Bank, Zonal Office, Model Town, Jalandhar (Punjab).
5. The Deputy Director, Distt. Defence Service Welfare Office, Jalandhar (Punjab).

Respondents

For the workman: Shri G.S. Raghav, Advocate
 For the management: Shri. J. S. Sathi Advocate.

AWARD

Passed on 09.04.2015

1. Government of India, Ministry of Labour *vide* notification L-12012/28/2013-IR(B-II) dated 24.05.2013 has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the Management of Punjab & Sind Bank, Jalandhar in terminating the services of Sh. Nishan Singh, son of Shri Ram Singh *w.e.f.* 01.08.2012 who was engaged by Punjab & Sind Bank through Distt. Defence Service Welfare Office, Jalandhar is just, valid and legal? If not, to what relief the workman is entitled for and what directions are necessary in the matter?"

2. The case of the workman as per the claim statement is that he is an ex-Service man from defence services and he got his name registered at Distt. Sainik Welfare Office, Jalandhar. The management *i.e.* respondent No. 3 Divisional Zonal Manager and Manager Security wanted the service of the Security Guard and they approached Respondent No. 5 *i.e.* the Deputy Director, District Defence Service Welfare Officer Jalandhar. The workman appeared in interview and he was engaged as Security Guard initially in 2001 by Punjab and Sind Bank, Zonal Office, Jalandhar after checking of relevant record related with the qualification, experience and relieving certificate issued by the Army and an affidavit was also got executed from the workman by the management. It is pleaded by the workman that he was posted in various branches of bank including ATM machines. He also possessed armed licence and weapon along with ammunition and he remained continuously in the service of the management from 2001 to 31.08.2012 and completed more than 240 days service in preceding year. It is pleaded by the workman that his service were illegally terminated on 01.08.2012 without any memo, show cause notice, charge-sheet and no inquiry was conducted and termination of the workman is against the provisions of Industrial Dispute Act as there is a relationship of employer and employee between the management and the workman and no retrenchment compensation has been paid to him at the time of termination of his service. It is further pleaded that he was drawing Rs. 7500/- per month and he is jobless since his termination. He prayed for direction to the management to reinstate him in service with continuity and full back wages with all benefits.

3. Management filed written statement. Preliminary objection has been taken that there existed no relationship of employer and employee between the claimant and the management as there was no supervision and control of the management on the workman. The applicant does not come under the umbrella of definition of the workman. It is pleaded by the management that the claimant was appointed

by Deputy Director, District Sainik Welfare Officer and he was deputed as Guard in the bank by the District Sainik Welfare Office, Jalandhar and used to get salary/wages from Deputy Director Sainik Welfare Office at the rate offered by the Deputy Director *i.e.* Respondent No. 5 and the same was accepted by the workman also. The Statutory deduction of the workman used to be made by Sainik Welfare Office with include provident fund and liability of payment of gratuity. His supervision and control, sanction of leave, disciplinary control was exercised by Deputy Director, District Sainik Welfare Office. It is further pleaded that engagement of Security Guard in the bank through service provider/reputed security agency is *para materia* to engagement of SPOs in the bank through Punjab Police during the terrorism in Punjab and the claimant after his attaining the age of retirement and getting benefits from Government exchequer would not bestow statutes of workman on him and he has no legal right as the bank has within its prerogative to change the service provider/contractor especially when the service provider flatly refused to abide by the ongoing practice ever since the inception of the arrangement. On merits it is pleaded by the management that Security Guards are permitted by the Central Government to engage through contractor and thus they are engaged through agency. The claimant was engaged as Security Guard and deputed in the bank by respondent No. 5 on intermediate days and respondent No. 5 was free to depute any service meant as Guard in the Bank. The claimant was never appointed by the bank. The bank authorities never exercise any supervision or control over the claimant and management did not maintained any attendance record of the Security Guard deputed by Sainik Welfare Office. As the District Welfare Office had a liberty to depute and serviceman on security and as such it is denied that the claimant ever completed 240 days of continued service in any year, therefore, there is no question of termination of claimant by the bank and there was no need for issuance of any show-cause notice, memorandum, charge- sheet etc as well as payment of retrenchment compensation. The claimant deputed at the ATM of Punjab and Sind Bank against through Sainik Welfare Office not the employee of the bank and therefore, there is no question of termination of his service and need for compliance of provisions of Industrial Dispute Act 1947. It is prayed by the management that as the salary/allowance used to be paid by respondent No. 5 at the rate respondent No. 5 deem fit, therefore, he is not entitled to reinstatement in the service of the bank as he was never appointed by the bank and nor any order of termination were passed by the bank, therefore the reference deserved to be rejected.

5. In evidence workman filed his affidavit along with documents. The workman was cross-examined by the learned counsel for the management. The workman in cross-examination admitted that he never submitted any application to the bank for the post of Security Guard nor he was issued any appointment letter. No arms and ammunitions was issued by the bank to him. He also

admitted that no letter of terminating his service was issued by the bank. He denied the suggestion that after terminating his services, bank asked him to join the new security agency which was engaged by the bank to provide the Security Guard. The management in evidence submitted affidavit of one Sandeep Singh who also relied on documents Ex.M2 to M10. In cross-examination the witness stated that the workman Nishan Singh joined the service on 19.02.2008 and his service were terminated on 01.08.2012 and at the time of termination, no notice of termination was issued to him and no departmental inquiry was conducted. His last drawn salary was Rs. 7500/-. He stated in the cross-examination that bank management exercises control over the work of the workman. He also stated that salary cheque was issued in the name of District Sainik Welfare, Jalandhar. He also stated that bank has been paying salary to the workman in their Saving Bank account. He further stated that Sainik Welfare Office authorized the bank to credit the workman salary in their respective accounts and there was no contract of the bank with Sainik Welfare Office. He also stated that at the time of initial appointment, affidavit was also taken from the workman and para 3 of the affidavit specified that services of the workman can be terminated after paying one month notice. He further stated that para 1 of the affidavit specified that bank will pay Rs. 5500/- per month towards wages to the workman through District Sainik Welfare Office, Jalandhar, which will be accepted to him. He further stated that in place of the workman other persons were engaged through private agency.

6. I have heard the parties and gone through the evidence and record of the case.

7. The learned counsel for the workman during arguments submitted that the workman was engaged with the management through Deputy Director District Defence Service Welfare Office Jalandhar. He was interviewed by the Manager Security Punjab and Sind Bank, Zonal Office, Jalandhar. It is further submitted by the learned counsel that the payment by cheque made to the workman through Deputy Director District Defence Service Welfare Office Jalandhar. At the time of termination on 1-8-2012 the workman was not given any retrenchment compensation notice for one month or pay in lieu of notice. It is further submitted by the learned counsel for the workman that there exists relationship of employer and employee between the management and the workman.

8. On the other hand, the learned counsel for the management submitted that the applicant was the employee of Deputy Director District Defence Service Welfare Office Jalandhar as he was deputed by the above Agency for security guard duty. The payment of wages used to be made to the above security agency *i.e.* Deputy Director District Defence Service Welfare Office Jalandhar which was responsible for deduction of provident fund and other statutory deductions. It is further submitted that the Deputy Director District Defence Service Welfare Office Jalandhar fixed the wages of the workman and accordingly the same were paid to the workman. The above agency used to be

service provider and the management was within its right to take the services of the workman through the above service provider. In the above facts and circumstances, there exists no relationship of employer and employee between the management and the workman and the workman was rightly not engaged *w.e.f.* 1.8.2012 and he is not entitled to any retrenchment compensation, notice of one month or pay in lieu thereof and provisions of Industrial Disputes Act 1947 are not applicable.

9. From the record it is revealed that the workman never submitted any application directly to the management for the post of security guard. It is admitted case of the parties that the workman was not issued any appointment letter. It is also admitted position that workman was registered with Deputy Director District Defence Service Welfare Office Jalandhar who deputed the workman for security duty with the respondent management. He was also not issued any arms and ammunition by the management. The witness of the management in cross examination stated that workman joined the services on 19-2-2008 with the management and his services were terminated on 1-8-2012. The witness further stated that bank management exercise control on the workman and bank has been paying salary to the workman in his saving bank account and sainik welfare officer authorized the bank to credit the salary in the account of the workman. It is further stated by the witness of the management that at the time of initial appointment affidavit was given by the workman, which specified that services of the workman can be terminated after paying one month notice.

10. Respondent No. 5 *i.e.* Deputy Director District Defence Service Welfare Office Jalandhar did not put up appearance before this court. However *vide* letter dated 25-6-2013 it is informed by the above that his office was only sponsoring agency and usually asked by the management to call ex-servicemen for interview and selected by security officer of the bank.

11. From the above it is clear that the respondent No. 5 sponsored the workman for guard duty with the management. The salary cheques issued in the name of respondent No. 5 and on authorization the salary used to be credit to the saving account of the workman. *Vide* letter dated June 2007, it was agreed that ex-servicemen would be paid Rs. 5500/- per month and payment. will be routed through respondent No. 5 in the form of DD/Mgr Cheques.

12. Be that as it may, it cannot be denied that workman joined the management bank on 19-2-2008 through respondent No. 5 *i.e.* Deputy Director District Defence Service Welfare Office Jalandhar and worked till 1-8-2012. The management failed to prove that the above respondent No. 5 was the service provider. In the facts and circumstances the workman worked for the respondent management. Admittedly no notice, retrenchment compensation was paid to the workman at the time of termination. It is also the fact that the workman was not issued any appointment letter and termination letter. In the

above circumstances, as the workman worked for the management, he is entitled to be paid at least the terminal dues at the time of his termination. The workman worked for the management for almost four years and six months. He is entitled for pay for one month as notice period and retrenchment compensation as per Section 25 F (b) @ 15 days average pay for each completed year of continuous service. Thus the amount so computed comes to Rs. 26500/- making this amount rounded to Rs. 27000/- (twenty seven thousand only). The workman is entitled to get this amount from management respondent No. 1 to 4.

13. The management is directed to pay Rs. 27000/- (twenty seven thousand only) to the workman within one month from the date of publication. The reference is answered accordingly. Central Govt. be informed. Soft as well hard copy be sent to the Central Govt. for publication, Chandigarh.
09.4.2015

S. P. SINGH, Presiding Officer

नई दिल्ली, 18 जून, 2015

का.आ. 1272.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब एण्ड सिंध बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय नं. 1, चंडीगढ़ के पंचाट (संदर्भ सं. 64/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/06/2015 को प्राप्त हुआ था।

[सं एल-12012/20/2013-आईआर(बी-II)]
रवि कुमार, डेस्क अधिकारी

New Delhi, the 18th June, 2015

S.O. 1272.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 64/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court- No. 1, Chandigarh as shown in the Annexure, in the industrial dispute between the management of Punjab & Sind Bank and their workmen, received by the Central Government on 18/06/2015.

[No. L-12012/20/2013-IR (B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI SURENDRA PRAKASH SINGH, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.

Case No. ID 64 of 2013. Reference No. L-12012/20/2013-IR (B-II) dated 23.05.2013.

Sh Tajinder Pal Singh, S/o Sh. Sahib Singh, R/o VPO Sudar, Near Rayia, Distt. Amritsar (Punjab)

...Workman

Versus

1. The Chairman, Punjab and Sind Bank, Canught Place, 24, Rajinder Palace, New Delhi.
2. The Zonal Manager, Punjab & Sind Bank, Local H.Q. Sector-17, Chandigarh.
3. The Divisional General Manager, Punjab & Sind Bank, Model Town, Jalandhar, Distt. Jalandhar (Punjab).
4. The Manager Security, Punjab & Sind Bank, Zonal Office, Model Town, Jalandhar (Punjab).
5. The Deputy Director, Distt. Defence Service Welfare Office, Jalandhar (Punjab).

Respondents

For the workman: Shri G.S. Raghav, Advocate
For the management: Shri J.S. Sathi, Advocate

AWARD

Passed on 09.04.2015

1. Government of India Ministry of Labour vide notification L-12012/20/2013-IR (B-II) dated 23.05.2013 has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the Management of Punjab & Sind Bank, Jalandhar in terminating the services of Sh. Tajinder Pal Singh S/o Sh. Sahib Singh *w.e.f.* 01.08.2012 who was engaged by Punjab & Sind Bank through Distt. Defence Service Welfare Office, Jalandhar is just, valid and legal? If not, to what relief the workman is entitled for and what directions are necessary in the matter?"

2. The case of the workman as per the claim statement is that he is an ex-Service man from defence services and he got his name registered at Distt. Sainik Welfare Office, Jalandhar. The management *i.e.* respondent No. 3 Divisional Zonal Manager and Manager Security wanted the service of the Security Guard and they approached Respondent No. 5 *i.e.* the Deputy Director, District Defence Service Welfare Office Jalandhar. The workman appeared in interview and he was engaged as Security Guard initially in 2011 by Punjab and Sind Bank, Zonal Office Jalandhar after checking of relevant record related with the qualification, experience and relieving certificate issued by the Army and an affidavit was also got executed from the workman by the Management. It is pleaded by the workman that he was posted in various branches of bank including ATM machines. He also possessed armed licence and weapon along with ammunition and he remained continuously in the service of the management from 2011 to 31.07.2012 and completed more than 240 days service in preceding year. It is pleaded by the workman that his services were illegally terminated on 01.08.2012 without any memo, show cause

notice, charge-sheet and no inquiry was conducted and termination of the workman is against the provisions of Industrial Dispute Act as there is a relationship of employer and employee between the management and the workman and no retrenchment compensation has been paid to him at the time of termination of his service. It is further pleaded that he was drawing Rs. 7500/- per month and he is jobless since his termination. He prayed from direction to the management to reinstate him in service with continuity and full back wages with all benefits.

3. Management filed written statement Preliminary objection has been taken that there existed no relationship of employer and employee between the claimant and the management as there was no supervision and control of the management on the workman. The applicant does not come under the umbrella of definition of the workman. It is pleaded by the management that the claimant was appointed by Deputy Director, District Sainik Welfare Officer and he was deputed as Guard in the bank by the District Sainik Welfare Office, Jalandhar and used to get salary/wages from Deputy Director Sainik Welfare Office at the rate offered by the Deputy Director *i.e.* Respondent No. 5 and the same was accepted by the workman also. The statutory deduction of the workman used to be made by Sainik Welfare Office which include provident fund and liability of payment of gratuity. His supervision and control, sanction of leave, disciplinary control was exercised by Deputy Director, District Sainik Welfare Office. It is further pleaded that engagement of Security Guard in the bank through service provider/reputed security agency is para materia to engagement of SPOs in the bank through Punjab Police during the terrorism in Punjab and the claimant after his attaining the age of retirement and getting benefits from Government exchequer would not bestow statutes of workman on him and he has no legal right as the bank has within its prerogative to change the service provider/contractor especially when the service provider flatly refused to abide by the ongoing practice ever since the inception of the arrangement. On merits it is pleaded by the management that Security Guards are permitted by the Central Government to engage through contractor and thus they are engaged through agency. The claimant was engaged as Security Guard and deputed in the bank by respondent No. 5 on intermediate days and respondent No. 5 was free to depute any service meant as Guard in the Bank. The claimant was never appointed by the bank. The bank authorities never exercise any supervision or control over the claimant and management did not maintained any attendance record of the Security Guard deputed by Sainik Welfare Office. As the District Welfare Office had a liberty to depute any serviceman on security and as such it is denied that the claimant ever completed 240 days of continued service in any year, therefore, there is no question of termination of claimant by the bank and there was no need for issuance of any show cause notice, memorandum,

charge sheet etc. as well as payment of retrenchment compensation. The claimant deputed at the ATM of Punjab and Sind Bank against through Sainik Welfare Office not the employee of the bank and therefore, there is no question of termination of his service and need for compliance of provisions of Industrial Dispute Act, 1947. It is prayed by the management that as the salary/allowance used to be paid by respondent No. 5 at the rate respondent No. 5 deem fit, therefore, he is not entitled to reinstatement in the service of the bank as he was never appointed by the bank and nor any order of termination were passed by the bank, therefore the reference deserved to be rejected.

5. In evidence workman filed his affidavit with documents. The workman was cross-examined by the learned counsel for the management. The workman in cross-examination admitted that he never submitted any application to the bank for the post of Security Guard nor he was issued any appointment letter. No arms and ammunitions was issued by the bank to him. He also admitted that no letter terminating his service was issued by the bank. He denied the suggestion that after terminating his services, bank asked him to join the new security agency which was engaged by the bank to provide the Security Guard. The management in evidence submitted affidavit of one Sandeep Singh who also relied on documents Ex. M2 to M8. In cross-examination the witness stated that the workman Tejinder Pal Singh joined the service on 01.01.2010 and his service were terminated on 01.08.2012 and at the time of termination, no notice of termination was issued to him and no departmental inquiry was conducted. His last drawn salary was Rs. 7500/-. He stated in the cross-examination that bank management exercise control over the work of he workman. He also stated that salary cheque was issued in the name of District Sainik Welfare, Jalandhar, He also stated that bank has been paying salary to the workman in their saving bank account. He further stated that Sainik Welfare Office authorized the bank to credit the workman salary in their respective accounts and there was no contract of the bank with Sainik Welfare Officer. He also stated that at the time of initial appointment, affidavit was also taken from the workman and para 3 of the affidavit specified that services of the workman can be terminated after paying one month notice. He further stated that para 1 of the affidavit specified that bank will pay Rs. 5500/- per month towards wages to the workman through District Sainik Welfare Office, Jalandhar, which will be accepted to him. He further stated that in place of the workman other persons were engaged through private agency.

6. I have heard the parties and gone through the evidence and record of the case.

7. The learned counsel for the workman during arguments submitted that the workman was engaged with the management through Deputy Director District Defence Service Welfare Office Jalandhar. He was interviewed by

the Manager Security Punjab and Sind Bank, Zonal Office, Jalandhar. It is further submitted by the learned counsel that the payment by cheque made to the workman through Deputy Director District Defence Service Welfare Office Jalandhar. At the time of termination on 1.8.2012 the workman was not given any retrenchment compensation notice for one month or pay in lieu of notice. It is further submitted by the learned counsel for the workman that there exists relationship of employer and employee between the management and the workman.

8. On the otherhand, the learned counsel for the management submitted that the applicant was the employee of Deputy Director District Defence Service Welfare Office Jalandhar as he was deputed by the above Agency for security guard duty. The payment of wages used to be made to the above security agency *i.e.* Deputy Director District Defence Service Welfare Office Jalandhar which was responsible for deduction of provident fund and other statutory deductions. It is further submitted that the Deputy Director District Defence Service Welfare Office Jalandhar fixed the wages of the workman and accordingly the same were paid to the workman. The above agency used to be service provider and the management was within its right to take the services of the workman through the above service provider. In the above facts and circumstances, there exists no relationship of employer and employee between the management and the workman and the workman was rightly not engaged *w.e.f.* 1.8.2012 and he is not entitled to any retrenchment compensation, notice of one month or pay in lieu thereof and provisions of Industrial Disputes Act 1947 are not applicable.

9. From the record it is revealed that the workman never submitted any application directly to the management for the post of security guard. It is admitted case of the parties that the workman was not issued any appointment letter. It is also admitted position that workman was registered with Deputy Director District Defence Service Welfare Office Jalandhar who deputed the workman for security duty with the respondent management. He was also not issued any arms and ammunition by the management. The witness of the management in cross examination stated that workman joined the services on 1.1.2010 with the management and his services were terminated on 1.8.2012. The witness further stated that bank management exercise control on the workman and bank has been paying salary to the workman in his saving bank account and sainik welfare officer authorized the bank to credit the salary in the account of the workman. It is further stated by the witness of the management that at the time of initial appointment affidavit was given by the workman, which specified that services of the workman can be terminated after paying one month notice.

10. Respondent No. 5 *i.e.* Deputy Director District Defence Service Welfare Office Jalandhar did not put up appearance before this court. However *vide* letter dated

25.6.2013 it is informed by the above that his office was only sponsoring agency and usually asked by the management to call ex-servicemen for interview and selected by security officer of the bank.

11. From the above it is clear that the respondent no. 5 sponsored the workman for guard duty with the management. The salary cheques issued in the name of respondent no. 5 and on authorization the salary used to be credit to the saving account of the workman. *Vide* letter dated June 2007, it was agreed that ex-servicemen would be paid Rs. 5500/- per month and payment will be routed through respondent no. 5 in the form of DD/Mgr Cheques.

12. Be that as it may, it cannot be denied that workman joined the management bank on 1.1.2010 through respondent No. 5 *i.e.* Deputy Director District Defence Service Welfare Office Jalandhar and worked till 1.8.2012. The management failed to provide that the above respondent No. 5 was the service provider. In the facts and circumstances the workman worked for the respondent management. Admittedly no notice, retrenchment compensation was paid to the workman at the time of termination. It is also the fact that the workman was not issued any appointment letter and termination letter. In the above circumstances, as the workman worked for the management, he is entitled to be paid at least the terminal dues at the time of his termination. The workman worked for the management for almost two years and seven months. He is entitled for pay for one month as notice period and retrenchment compensation as per Section 25F (b) @ 15 days average pay for each completed year of continuous service. Thus the amount so computed comes to Rs. 19000/- making this amount rounded to Rs. 20000/- (Twenty thousand only). The workman is entitled to get this amount from management respondents No. 1 to 4.

13. The management is directed to pay Rs. 20000/- (Twenty thousand only) to the workman within one month from the date of publication. The reference is answered accordingly. Central Govt. be informed. Soft as well hard copy be sent to the Central Govt. for publication.

Chandigarh

Dt. 9.4.2015

S. P. SINGH, Presiding Officer

नई दिल्ली, 18 जून, 2015

का.आ. 1273.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब एण्ड सिंध बैंक के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 1, चंडीगढ़ के पंचाट (संदर्भ सं. 79/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 18.06.2015 को प्राप्त हुआ था।

[सं० एल-12012/22/2013-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 18th June, 2015

S.O. 1273.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 79/2013) of the Central Government Industrial Tribunal-Cum-Labour Court No. 1 Chandigarh as shown in the Annexure, in the industrial dispute between the management of Punjab and Sind Bank and their workmen, received by the Central Government on 18/06/2015.

[No. L-12012/22/2013-IR (B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE SHRISURENDRA PRAKASH SINGH, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH

Case No. ID 79 of 2013. Reference No. L-12012/22/2013-IR(B-II) dated 27.05.2013. Sh. Kamal Preet Singh son of Shri Shingara Singh, resident of Ward No. 5, House No. 153, Radha Swami Colony Dasuya, District Hoshiarpur. (Punjab)

Workman

Versus

1. The Chairman, Punjab and Sind Bank, Canaught Place, 24, Rajinder Palace, New Delhi.
2. The Zonal Manager, Punjab and Sind Bank, Local H.Q. Sector-17, Chandigarh.
3. The Divisional General Manager, Punjab and Sind Bank, Model Town, Jalandhar Distt. Jalandhar (Punjab).
4. The Manager Security, Punjab and Sind Bank, Zonal Office, Model Town, Jalandhar (Punjab)
5. The Deputy Director, Distt, Defence Service Welfare Office, Jalandhar (Punjab).

Respondents

For the workman : Shri G.S. Raghav, Advocate
For the management : Shri J.S. Sathi, Advocate

AWARD

Passed on 09.04.2015

1. Government of India Ministry of Labour *vide* notification L-12012/22/2013-IR(B-II) dated 27.05.2013 has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the Management of Punjab & Sind Bank, Jalandhar in terminating the services of Sh. Kamal Preet Singh son of Shri Shingara Singh *w.e.f.* 01.08.2012 who was engaged by Punjab & Sind Bank through Distt. Defence Service Welfare Office,

Jalandhar is just, valid and legal? If not, to what relief the workman is entitled for and what directions are necessary in the matter?"

2. The case of the workman as per the claim statement is that he is an ex-Service man from defence services and he got his name registered at Distt. Sainik Welfare Office, Jalandhar. The management *i.e.* respondent No. 3 Divisional Zonal Manager and Manager Security wanted the service of the Security Guard and they approached Respondent No. 5 *i.e.* the Deputy Director, District Defence Service Welfare Office Jalandhar. The workman appeared in interview and he was engaged as Security Guard initially on 6.6.07 by Punjab and Sind Bank, Zonal Office Jalandhar after checking of relevant record related with the qualification, experience and relieving certificate issued by the Army and an affidavit was also got executed from the workman by the management. It is pleaded by the workman that he was posted in various branches of bank including ATM machines. He also possessed armed licence and weapon along with ammunition and he remained continuously in the service of the management from 2007 to 31.07.2012 and completed more than 240 days service in preceding year. It is pleaded by the workman that his services were illegally terminated on 01.08.2012 without any memo, show cause notice, charge-sheet and no inquiry was conducted and termination of the workman is against the provisions of Industrial Dispute Act as there is a relationship of employer and employee between the management and the workman and no retrenchment compensation has been paid to him at the time of termination of his service. It is further pleaded that he was drawing Rs. 7500/- per month and he jobless since his termination. He prayed for direction to the management to reinstate him in service with continuity and full back wages with all benefits.

3. Management filed written statement. Preliminary objection has been taken that there existed no relationship of employer and employee between the claimant and the management as there was no supervision and control of the management on the workman. The applicant does not come under the umbrella of definition of the workman. It is pleaded by the management that the claimant was appointed by Deputy Director, District Sainik Welfare Officer and he was deputed as Guard in the bank by the District Sainik Welfare Office, Jalandhar and used to get salary/wages from Deputy Director Sainik Welfare Office at the rate offered by the Deputy Director *i.e.* Respondent No. 5 and the same was accepted by the workman also. The statutory deduction of the workman used to be made by Sainik Welfare Office which include provident fund and liability of payment of gratuity. His supervision and control, sanction of leave, disciplinary control was exercised by Deputy Director, District Sainik Welfare Office. It is further pleaded that engagement of Security Guard in the bank through service provider/reputed security agency is para

materia to engagement of SPOs in the bank through Punjab Police during the terrorism in Punjab and the claimant after his attaining the age of retirement and getting benefits from Government exchequer would not bestow statutes of workman on him and he has no legal right as the bank has within its prerogative to change the service provider/contractor especially when the service provider flatly refused to abide by the ongoing practice ever since the inception of the arrangement. On merits it is pleaded by the management that Security Guards are permitted by the Central Government to engage through contractor and thus they are engaged through agency. The claimant was engaged as Security Guard and deputed in the bank by respondent No. 5 on intermediate days and respondent No. 5 was free to depute any service meant as Guard in the Bank. The claimant was never appointed by the bank. The bank authorities never exercise any supervision or control over the claimant and management did not maintained any attendance record of the Security Guard deputed by Sainik Welfare Office. As the District Welfare Office had a liberty to depute any serviceman on security and as such it is denied that the claimant ever completed 240 days of continued service in any year, therefore, there is no question of termination of claimant by the bank and there was no need for issuance of any show cause notice, memorandum, charge sheet etc. as well as payment of retrenchment compensation. The claimant deputed at the ATM of Punjab and Sind Bank against through Sainik Welfare Office not the employee of the bank and therefore, there is no question of termination of his service and need for compliance of provisions of Industrial Dispute Act 1947. It is prayed by the management that as the salary/allowance used to be paid by respondent No. 5 at the rate respondent No. 5 deem fit, therefore, he is not entitled to reinstatement in the service of the bank as he was never appointed by the bank and nor any order of termination were passed by the bank, therefore the reference deserved to be rejected.

5. In evidence workman filed his affidavit along with documents. The workman was cross-examined by the learned counsel for the management. The workman in cross-examination admitted that he never submitted any application to the bank for the post of Security Guard nor he was issued any appointment letter. No arms and ammunitions was issued by the bank to him. He also admitted that no letter of terminating his service was issued by the bank. He denied the suggestion that after terminating his services, bank asked him to join the new security agency which was engaged by the bank to provide the Security Guard. The management in evidence submitted affidavit of one Sandeep Singh who also relied on documents Ex.M2 to M7. In cross-examination the witness stated that the workman Kamalpreet Singh joined the service on 5.6.2007 and his service were terminated on 01.08.2012 and at the time of termination, no notice of termination was issued to him and no departmental inquiry was conducted. His last

drawn salary was Rs. 7500/-. He stated in the cross-examination that bank management exercises control over the work of the workman. He also stated that salary cheque was issued in the name of District Sainik Welfare, Jalandhar. He also stated that bank has been paying salary to the workman in their saving bank account. He further stated that Sainik Welfare Office authorized the bank to credit the workman salary in their respective accounts and there was no contract of the bank with Sainik Welfare Officer. He also stated that at the time of initial appointment, affidavit was also taken from the workman and para 3 of the affidavit specified that services of the workman can be terminated after paying one month notice. He further stated that para 1 of the affidavit specified that bank will pay Rs. 5500/- per month towards wages to the workman through District Sainik Welfare Office, Jalandhar, which will be accepted to him. He further stated that in place of the workman other persons were engaged through private agency.

6. I have heard the parties and gone through the evidence and record of the case.

7. The learned counsel for the workman during arguments submitted that the workman was engaged with the management through Deputy Director District Defence Service Welfare Office Jalandhar. He was interviewed by the Manager Security Punjab and Sind Bank, Zonal Office, Jalandhar. It is further submitted by the learned counsel that the payment by cheque made to the workman through Deputy Director District Defence Service Welfare Office Jalandhar. At the time of termination on 1.8.2012 the workman was not given any retrenchment compensation notice for one month or pay in lieu of notice. It is further submitted by the learned counsel for the workman that there exists relationship of employer and employee between the management and the workman.

8. On the other hand, the learned counsel for the management submitted that the applicant was the employee of Deputy Director District Defence Service Welfare Office Jalandhar as he was deputed by the above Agency for security guard duty. The payment of wages used to be made to the above security agency i.e. Deputy Director District Defence Service Welfare Office Jalandhar which was responsible for deduction of provident fund and other statutory deductions. It is further submitted that the Deputy Director District Defence Service Welfare Office Jalandhar fixed the wages of the workman and accordingly the same were paid to the workman. The above agency used to be service provider and the management was within its right to take the services of the workman through the above service provider. In the above facts and circumstances, there exists no relationship of employer and employee between the management and the workman and the workman was rightly not engaged *w.e.f.* 1.8.2012 and he is not entitled to any retrenchment compensation, notice of one month or pay in lieu thereof and provisions of Industrial Disputes Act 1947 are not applicable.

9. From the record it is revealed that the workman never submitted any application directly to the management for the post of security guard. It is admitted case of the parties that the workman was not issued any appointment letter. It is also admitted position that workman was registered with Deputy Director District Defence Service Welfare Office Jalandhar who deputed the workman for security duty with the respondent management. He was also not issued any arms and ammunition by the management. The witness of the management in cross examination stated that workman joined the services on 5.6.2007 with the management and his services were terminated on 1.8.2012. The witness further stated that bank management exercise control on the workman and bank has been paying salary to the workman in his saving bank account and sainik welfare officer authorized the bank to credit the salary in the account of the workman. It is further stated by the witness of the management that at the time of initial appointment affidavit was given by the workman, which specified that services of the workman can be terminated after paying one month notice.

10. Respondent no. 5 i.e. Deputy Director Defence Service Welfare Office Jalandhar did not put up appearance before this court. However vide letter dated 25.6.2013 it is informed by the above that his officer was only sponsoring agency and usually asked by the management to call-ex-servicemen for interview and selected by security officer of the bank.

11. From the above it is clear that the respondent no. 5 sponsored the workman for guard duty with the management. The salary cheques issued in the name of respondent no. 5 and on authorization the salary used to be credit to the saving account of the workman. *vide* letter dated June, 2007, it was agreed that ex-servicemen would be paid Rs. 5500/- per month and payment will be routed through respondent no. 5 in the form of DD/Mgr. Cheques.

12. Be that as it may, it cannot be denied that workman joined the management bank on 5.6.2007 through respondent no. 5 i.e. Deputy Director District Defence Service Welfare Office Jalandhar and worked till 1.8.2012. The management failed to prove that the above respondent no. 5 was the service provider. In the facts and circumstances the workman worked for the respondent management. Admittedly no notice retrenchment compensation was paid to the workman at the time of termination. It is also the fact that the workman was not issued any appointment letter and termination letter. In the above circumstances, as the workman worked for the management, he is entitled to be paid at least the terminal dues at the time of his termination. The workman worked for the management for almost five years and one month. He is entitled for pay for one month as notice period and

retrenchment compensation as per Section 25F(b)@15 days average pay for each completed year of continuous service. Thus the amount so computed comes to Rs. 26250/- making this amount rounded to Rs. 27000/- (twenty seven thousand only). The workman is entitled to get this amount from management respondents No. 1 to 4.

13. The management is directed to pay Rs. 27000/- (twenty seven thousand only) to the workman within one month from the date of publication. The reference is answered accordingly. Central Govt. be informed. Soft as well hard copy be sent to the Central Govt. for publication.

Chandigarh
09.04.2015

S. P. SINGH, Presiding Officer

नई दिल्ली, 18 जून, 2015

का.आ. 1274.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब एंड सिंध बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय न. 1, चंडीगढ़ के पंचाट (संदर्भ संख्या 80/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 18.06.2015 को प्राप्त हुआ था।

[सं एल-12012/23/2013-आई.आर. (बी-II)
रवि कुमार, डेस्क अधिकारी

New Delhi, the 18th June, 2015

S.O. 1274.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 80/2013) of the Central Government Industrial-Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure, in the industrial dispute between the management of Punjab & Sind Bank and their workmen, received by the Central Government on 18.06.2015.

[No. L-12012/23/2013-IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH**

Case No. ID 80 of 2013

Reference No. L-12012/23/2013-IR(B-II) dated 30.05.2013.
Sh. Daljit Singh son of Shri Gurdarshan, resident of Village Kattowal, P.O.

Dhaddar, District Hoshiarpur (Punjab)

...Workman

Versus

1. The Chairman, Punjab and Sind Bank, Canaught Place, 24, Rajinder Palace, New Delhi.
2. The Zonal Manager, Punjab and Sind Bank, Local H.Q. Sector-17, Chandigarh.
3. The Divisional General Manager, Punjab and Sind Bank, Model Town, Jalandhar, Distt. Jalandhar (Punjab).
4. The Manager Security, Punjab and Sind Bank, Zonal Office, Model Town, Jalandhar (Punjab).
5. The Deputy Director, Distt. Defence Service Welfare Office, Jalandhar (Punjab).

...Respondents

For the workman: Shri G.S. Raghav, Advocate
 For the management: Shri J. S. Sathi, Advocate

AWARD**Passed on 09.04.2015**

1. Government of India Ministry of Labour *vide* notification Reference No. L-12012/23/2013-IR(B-II) dated 30.05.2013 has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the Management of Punjab & Sind Bank, Jalandhar in terminating the services of Sh. Daljit Singh son Shri Gurdarshan Singh *w.e.f.* 01.08.2012 who was engaged by of Punjab & Sind Bank through Distt. Defence Service Welfare Officer, Jalandhar is just, valid and legal? If not to what relief the workman is entitled for and what directions are necessary in the matter?"

2. The case of the workman as per the claim statement is that he is an ex-Serviceman from defence services and he got his name registered at Distt. Sainik Welfare Office, Jalandhar. The management i.e. respondent No. 3 Divisional Zonal Manager and Manager Security wanted the service of the Security Guard and they approached Respondent No. 5 i.e. the Deputy Director District Defence Service Welfare Office Jalandhar. The workman appeared in interview and he was engaged as Security Guard initially on 13.08.08 by Punjab and Sind Bank, Zonal Office Jalandhar after checking of relevant record related with the qualification, experience and relieving certificate issued by the Army and an affidavit was also got executed from the workman by the management. It is pleaded by the workman that he was posted in various branches of bank including ATM machines. He also possessed armed licence and weapon along with ammunition and he remained continuously in the service of the management from 2008 to 31.07.2012 and completed more than 240 days service in preceding year. It is pleaded by the workman that his services were illegally terminated on 01.08.2012 without

any memo, show cause notice, charge-sheet and no inquiry was conducted and termination of the workman is against the provisions of Industrial Dispute Act as there is a relationship of employer and employees between the management and the workman and no retrenchment compensation has been paid to him at the time of termination of his service. It is further pleaded that he was drawing Rs. 7500/- per month and he is jobless since his termination. He prayed for direction to the management to reinstate him in service with continuity and full back wages with all benefits.

3. Management filed written statement, Preliminary objection has been taken that there existed no relationship of employer and employee between the claimant and the management as there was no supervision and control of the management on the workman. The applicant does not come under the umbrella of definition of the workman. It is pleaded by the management that the claimant was appointed by Deputy Director, District Sainik Welfare Officer and he was deputed as Guard in the bank by the District Sainik Welfare Office, Jalandhar and used to get salary/wages from Deputy Director Sainik Welfare Office at the rate offered by the Deputy Director *i.e.* Respondent No. 5 and the same was accepted by the workman also. The statutory deduction of the workman used to be made by Sainik Welfare Office which include provident fund and liability of payment of gratuity. His supervision and control, sanction of leave, disciplinary control was exercised by Deputy Director, District Sainik Welfare Office. It is further pleaded that engagement of Security Guard in the bank through service provider/reputed security agency is *para materia* to engagement of SPOs in the bank through Punjab Police during the terrorism in Punjab and the claimant after his attaining the age of retirement and getting benefits from Government exchequer would not bestow statutes of workman on his and he has no legal right as the bank has within its prerogative to change the service provider/contractor especially when the service provider flatly refused to abide by the ongoing practice ever since the inception of the arrangement. On merits it is pleaded by the management that Security Guards are permitted by the Central Government to engage through contractor and thus are engaged through agency. The claimant was engaged as Security Guard and deputed in the bank by respondent No. 5 on intermediate days and respondent No. 5 was free to depute any service meant as Guard in the Bank. The claimant was never appointed by the bank. The bank authorities never exercise any supervision or control over the claimant and management did not maintained any attendance record If the Security Guard deputed by Sainik Welfare Office. As the District Welfare Office had a liberty to depute any serviceman on security and as such it is denied that the claimant ever completed 240 days of continued service in any year, therefore, there is no question of termination of claimant by the bank and there was no

need for issuance of any show cause notice, memorandum, charge sheet etc as well as payment of retrenchment compensation. The claimant deputed at the ATM of Punjab and Sind Bank against through Sainik Welfare Office not the employee of the bank and therefore, there is no question of termination of his service and need for compliance of provisions of Industrial Dispute Act 1947. It is prayed by the management that as the salary/allowance used to be paid by respondent No. 5 at the rate respondent No. 5 deem fit, therefore, he is not entitled to reinstatement in the service of the bank as he was never appointed by the bank and nor any order of termination were passed by the bank, therefore the reference deserved to be rejected.

5. In evidence workman filed his affidavit along with documents. The workman was cross-examined by the learned counsel for the management. The workman in cross-examination admitted that he never submitted any application to the bank for the post of Security Guard nor he was issued any appointment letter. No arms and ammunitions was issued by the bank to him. He also admitted that no letter of terminating his service was issued by the bank. He denied the suggestion that after terminating his services, bank asked him to join the new security agency which was engaged by the bank to provide the Security Guard. The management in evidence submitted affidavit of one Sandeep Singh who also relied on documents Ex.M2 to M7. In cross-examination the witness stated that the workman Daljit Singh joined the service on 13.8.2008 and his service were terminated on 01.08.2012 and at the time of termination, no notice of termination was issued to him and no departmental inquiry was conducted. His last drawn salary was Rs. 7500/-. He stated in the cross-examination that bank management exercises control over the work of the workman. He also stated that salary cheque was issued in the name of District Sainik Welfare, Jalandhar. He also stated that bank has been paying salary to the workman in their saving bank account. He further stated that Sainik Welfare Office authorized the bank to credit the workman salary in their respective accounts and there was no contract of the bank with Sainik Welfare Officer. He also stated that at the time of initial appointment, affidavit was also taken from the workman and para 3 of the affidavit specified that services of the workman can be terminated after paying one month notice. He further stated that para I of the affidavit specified that bank will pay Rs. 5500/- per month towards wages to the workman through District Sainik Welfare Office, Jalandhar, which will be accepted to him. He further stated that in place of the workman other persons were engaged through private agency.

6. I have heard the parties and gone through the evidence and record of the case.

7. The learned counsel for the workman during arguments submitted that the workman was engaged with the

management through Deputy Director District Defence Service Welfare Office Jalandhar. He was interviewed by the Manager Security Punjab and Sind Bank, Zonal Office, Jalandhar. It is further submitted by the learned counsel that the payment by cheque made to the workman through Deputy Director District Defence Service Welfare Office Jalandhar. At the time of termination on 1.8.2012 the workman was not given any retrenchment compensation notice for one month or pay in lieu of notice. It is further submitted by the learned counsel for the the workman that exists relationship of employer and employee between the management and the workman.

8. On the other hand, the learned counsel for the management submitted that the applicant was the employee of Deputy Director District Defence Service Welfare Office Jalandhar as he was deputed by the above Agency for security guard duty. The payment of wages used to be made to the above security agency *i.e.* Deputy Director District Defence Service Welfare Jalandhar which was responsible for deduction of provident fund and other statutory deductions. It is further submitted that the Deputy Director District Defence Service Welfare Office Jalandhar fixed the wages of the workman and accordingly the same were paid to the workman. The above agency used to be service provider and the management was within its right to take the services of the workman through the above service provider. In the above facts and circumstances, there exists no relationship of employer and employee between the management and the workman and the workman was rightly not engaged *w.e.f.* 1.8.2012 and he is not entitled to any retrenchment compensation, notice of one month or pay in lieu thereof and provisions of Industrial Disputes Act 1947 are not applicable.

9. From the record it is revealed that the workman never submitted any application directly to the management for the post of security guard. It is admitted case of the parties that the workman was not issued any appointment letter. It is also admitted position that workman was registered with Deputy Director District Defence Service Welfare Office Jalandhar who deputed the workman for security duty with the respondent management. He was also not issued any arms and ammunition by the management. The witness of the management in cross examination stated that workman joined the services on 13.8.2008 with the management and his services were terminated on 1.8.2012. The witness further stated that bank management exercise control on the workman and bank has been paying salary to the workman in his saving bank account and Sainik Welfare Officer authorized the bank to credit the salary in the account of the workman. It is further stated by the witness of the management that at the time of initial appointment affidavit was given by the workman, which specified that services of the workman can be terminated after paying one month notice.

10. Respondent No. 5 *i.e.* Deputy Director District Defence Service Welfare Office Jalandhar did not put up appearance before this court. However *vide* letter dated 25.6.2013 it is informed by the above that his office was only sponsoring agency and usually asked by the management to call Ex-servicemen for interview and selected by security officer of the bank.

11. From the above it is clear that the respondent No. 5 sponsored the workman for guard duty with the management. The salary cheques issued in the name of respondent No.5 and on authorization the salary used to be credit to the saving account of the workman. *Vide* letter dated June 2007, it was agreed that Ex-servicemen would be paid Rs. 5500/- per month and payment will be routed through respondent No.5 in the form of DD/Mgr Cheques.

12. Be that as it may, it cannot be denied that workman joined the management bank on 13.8.2008 through respondent No.5 *i.e.* Deputy Director District Defence Service Welfare Office Jalandhar and worked till 1.8.2012. The management failed to prove that the above respondent No.5 was the service provider. In the facts and circumstances the workman worked for the respondent management. Admittedly no notice, retrenchment compensation was paid to the workman at the time of termination. It is also the fact that the workman was not issued any appointment letter and termination letter. In the above circumstances, as the workman worked for the management, he is entitled to be paid at least the terminal dues at the time of his termination. The workman worked for the management for almost four years. He is entitled for pay for one month as notice period and retrenchment compensation as per Section 25 F (b) @ 15 days average pay for each completed year of continuous service. Thus the amount so computed comes to Rs. 22500/- making this amount rounded to Rs. 23000/- (twenty three thousand only). The workman is entitled to get this amount from management respondents No. 1 to 4.

13. The management is directed to pay Rs. 23000/- (twenty three thousand only) to the workman within one month from the date of publication. The reference is answered accordingly. Central Govt. be informed. Soft as well hard copy be sent to the Central Govt. for publication. Chandigarh
09.04.2015

S. P. SINGH, Presiding Officer

नई दिल्ली, 18 जून, 2015

का.आ. 1275.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब एण्ड सिंध बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में

निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय नं 1. चंडीगढ़ के पंचाट (संदर्भ संख्या 78/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 18.06.2015 को प्राप्त हुआ था।

[सं एल-12012/18/2013-आई आर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 18th June, 2015

S.O. 1275.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 78/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure, in the industrial dispute between the management of Punjab & Sind Bank and their workmen, received by the Central Government on 18/06/2015.

[No. L-12012/18/2013-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI SURENDRA PRAKASH SINGH, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.

Case No. ID 78 of 2013. Reference No. L-12012/8/2013-IR (B-II) dated 28.05.2013. Sh. Shadi Lal son of Shri Jeet Singh R/o VPO Badala, Mohalla Rjpur, Hoshiyarpur. (Punjab)

...Workman

Versus

1. The Chairman, Punjab and Sind Bank, Cannaught Place, 24, Rajinder Palace, New Delhi.
2. The Zonal Manager, Punjab & Sind Bank, Local H.Q. Sector-17, Chandigarh.
3. The Divisional General Manager, Punjab & Sind Bank, Model Town, Jalandhar, Distt. Jalandhar (Punjab).
4. The manager Security, Punjab & Sind Bank, Zonal Office, Model Town, Jalandhar (Punjab).
5. The Deputy Director, Distt, Defence Service Welfare Office, Jalandhar (Punjab).

...Respondent

For the workman: Shri G.S. Raghav, Advocate
For the management : Shri J.S. Sathi, Advocate.

AWARD

Passed on 09.04.2015

1. Government of India Ministry of Labour *vide* notification L-12012/18/2013-IR(B-III) dated 28.05.2013 has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the Management of Punjab & Sind Bank, Jalandhar in terminating the services of Sh. Shadi Lal son of Shri Jeet Singh *w.e.f.* 01.08.2012 who was engaged by Punjab & Sind Bank through Distt. Defence Service Welfare Office, Jalandhar is just, valid and legal? If not, to what relief the workman is entitled for and what directions are necessary in the matter?"

2. The case of the workman as per the claim statement is that he is an ex-Service man from defence services and he got his name registered at Distt. Sainik Welfare Office, Jalandhar. The management *i.e.* respondent No. 3 Divisional Zonal Manager and Manager Security wanted the service of the Security Guard and they approached Respondent No. 5 *i.e.* the Deputy Director, District Defence Service Welfare Office Jalandhar. The workman appeared in interview and he was engaged as Security Guard initially on 7.4.2011 by Punjab and Sind Bank, Zonal Office Jalandhar after checking of relevant record related with the qualification, experience and relieving certificate issued by the Army and an affidavit was also got executed from the workman by the management. It is pleaded by the workman that he was posted in various branches including ATM machines. He also possessed armed licence and weapon along with ammunition and he remained continuously in the service of the management from 7.4.2011 to 31.07.2012 and completed more than 240 days service in preceding year. It is pleaded by the workman that his services were illegally terminated on 01.08.2012 without any memo, showcause notice, charge-sheet and no inquiry was conducted and termination of the workman is against the provisions of Industrial Dispute Act as there is a relationship of employer and employee between the management and the workman and no retrenchment compensation has been paid to him at the time of termination of his service. It is further pleaded that he was drawing Rs. 7500/- per month and he is jobless since his termination. He prayed for direction to the management to re-instate him in service with continuity and full back wages with all benefits.

3. Management filed written statement. Preliminary objection has been taken that there existed no relationship of employer and employee between the claimant and the management as there was no supervision and control of the management on the workman. The applicant does not come under the umbrella of definition of the workman. It is pleaded by the management that the claimant was appointed by Deputy Director, District Sainik Welfare Officer and he was deputed as Guard in the bank by the District Sainik Welfare Officer, Jalandhar and used to get salary/wages from Deputy Director Sainik Welfare Officer at the rate offered by the Deputy Director *i.e.* Respondent No. 5 and the same was accepted by the workman also. The statutory deduction of the workman used to be made by Sainik Welfare Office which include provident fund and liability

of payment of gratuity. His supervision and control, sanction of leave, disciplinary control was exercised by Deputy Director, District Sainik Welfare Office. It is further pleaded that engagement of Security Guard in the bank through service provider/reputed security agency is *para materia* to engagement of SPOs in the bank through Punjab Police during the terrorism in Punjab and the claimant after his attaining the age of retirement and getting benefits from Government exchequer would not bestow statutes of workman on him and he has no legal right as the bank has within its prerogative to change the service provider/contractor especially when the service provider flatly refused to abide by the ongoing practice ever since the inception of the arrangement. On merits it is pleaded by the management that Security Guards are permitted by the Central Government to engage through contractor and thus they are engaged through agency. The claimant was engaged as Security Guard and deputed in the bank by respondent No. 5 on intermediate days and respondent No. 5 was free to depute any service meant as Guard in the Bank. The claimant was never appointed by the bank. The bank authorities never exercise any supervision or control over the claimant and management did not maintained any attendance record of the Security Guard deputed by Sainik Welfare Office. As the District Welfare Office had liberty to depute any serviceman on security and as such it is denied that the claimant ever completed 240 days of continued service in any year, therefore, there is no question of termination of claimant by the bank and there was no need for issuance of any show cause notice, memorandum, charge sheet etc. as well as payment of retrenchment compensation. The claimant deputed at the ATM of Punjab and Sind Bank against through Sainik Welfare Office not the employee of the bank and therefore, there is no question of termination of his service and need for compliance of provisions of Industrial Dispute Act 1947. It is prayed by the management that as the salary/allowance used to be paid by respondent No. 5 at the rate respondent No. 5 deem fit, therefore, he is not entitled to reinstatement in the service of the bank as he was never appointed by the bank and nor any order of termination were passed by the bank, therefore the reference deserved to be rejected.

5. In evidence workman filed his affidavit along with documents. The workman was cross-examined by the learned counsel for the management. The workman in cross-examination admitted that he never submitted any application to the bank for the post of Security Guard nor he was issued any appointment letter. No arms and ammunitions were issued by the bank to him. He also admitted that no letter of terminating his service was issued by the bank. He denied the suggestion that after terminating his services, bank asked him to join the new security agency which was engaged by the bank to provide the Security Guard. The management in evidence submitted affidavit of

one Sandeep Singh who also relied on documents Ex. M2 to M8. In cross-examination the witness stated that the workman Shadi Lal joined the service on 26.3.2011 and his service were terminated on 01.08.2012 and at the time of termination, no notice of termination was issued to him and no departmental inquiry was conducted. His last drawn salary was Rs. 7500/-. He stated in the cross-examination that bank management exercises control over the work of the workman. He also stated that salary cheque was issued in the name of District Sainik Welfare, Jalandhar. He also stated that bank has been paying salary to the workman in their saving bank account. He further stated that Sainik Welfare Office authorized the bank to credit the workman salary in their respective accounts and there was no contract of the bank with Sainik Welfare Officer. He also stated that at the time of initial appointment, affidavit was also taken from the workman and para 3 of the affidavit specified that services of the workman can be terminated after paying one month notice. He further stated that para 1 of the affidavit specified that bank will pay Rs. 5500/- per month towards wages to the workman through District Sainik Welfare Office, Jalandhar, which will be accepted to him. He further stated that in place of the workman other persons were engaged through private agency.

6. I have heard the parties and gone through the evidence and record of the case.

7. The learned counsel for the workman during arguments submitted that the workman was engaged with the management through Deputy Director District Defence Service Welfare Office Jalandhar. He was interviewed by the Manager Security Punjab and Sind Bank, Zonal Office, Jalandhar. It is further submitted by the learned counsel that the payment by cheque made to the workman through Deputy Director District Defence Service Welfare Office Jalandhar. At the time of termination on 1-8-2012 the workman was not given any retrenchment compensation notice for one month or pay in lieu of notice. It is further submitted by the learned counsel for the workman that there exists relationship of employer and employee between the management and the workman.

8. On the other hand, the learned counsel for the management submitted that the applicant was the employee of Deputy Director District Defence Service Welfare Office Jalandhar as he was deputed by the above Agency for security guard duty. The payment of wages used to be made to the above security agency *i.e.* Deputy Director District Defence Service Welfare Office Jalandhar which was responsible for deduction of provident fund and other statutory deductions. It is further submitted that the Deputy Director District Defence Service Welfare Office Jalandhar fixed the wages of the workman and accordingly the same were paid to the workman. The above agency used to be service provider and the management was within its right to take the services of the workman through the above service

provider. In the above facts and circumstances, there exists no relationship of employer and employee between the management and the workman and the workman was rightly not engaged *w.e.f.* 1.8.2012 and he is not entitled to any retrenchment compensation, notice of one month or pay in lieu thereof and provisions of Industrial Disputes Act 1947 are not applicable.

9. From the record it is revealed that the workman never submitted any application directly to the management for the post of security guard. It is admitted case of the parties that the workman was not issued any appointment letter. It is also admitted position that workman was registered with Deputy Director District Defence Service Welfare Office Jalandhar who deputed the workman for security duty with the respondent management. He was also not issued any arms and ammunition by the management. The witness of the management in cross examination stated that workman joined the services on 26.3.2011 with the management and his services were terminated on 1.8.2012. The witness further stated that bank management exercise control on the workman and bank has been paying salary to the workman in his saving bank account and sainik welfare officer authorized the bank to credit the salary in the account of the workman. It is further stated by the witness of the management that at the time of initial appointment affidavit was given by the workman, which specified that services of the workman can be terminated after paying one month notice.

10. Respondent No. 5 *i.e.* Deputy Director District Defence Service Welfare Officer Jalandhar did not put up appearance before this court. However *vide* letter dated 25-6-2013 it is informed by the above that his office was only sponsoring agency and usually asked by the management to call ex-servicemen for interview and selected by security officer of the bank.

11. From the above it is clear that the respondent No. 5 sponsored the workman for guard duty with the management. The salary cheques issued in the name of respondent No. 5 and on authorization the salary used to be credit to the saving account of the workman. *Vide* letter dated June 2007, it was agreed that ex-servicemen would be paid Rs. 5500/- per month and payment will be routed through respondent No. 5 in the form of DD/Mgr Cheques.

12. Be that as it may, it cannot be denied that workman joined that management bank on 26-3-2011 through respondent No. 5 *i.e.* Deputy Director District Defence Service Welfare Office Jalandhar and worked till 1-8-2012. The management failed to prove that the above respondent No. 5 was the service provider. In the facts and circumstances the workman worked for the respondent management. Admittedly no notice, retrenchment compensation was paid to the workman at the time of termination. It is also the fact that the workman was not issued any appointment letter and termination letter. In the

above circumstances, as the workman worked for the management, he is entitled to be paid at least the terminal dues at the time of his termination. The workman worked for the management for almost one year and four months. He is entitled for pay for one month as notice period and retrenchment compensation as per Section 25 F (b) @ 15 days average pay for each completed year of continuous service. Thus the amount so computed comes to Rs. 12000/- (twelve thousand only). The workman is entitled to get this amount from management respondents Nos. 1 to 4.

13. The management is directed to pay Rs. 12000/- (twelve thousand only) to the workman within one month from the date of publication. The reference is answered accordingly. Central Govt. be informed. Soft as well hard copy be sent to the Central Govt. for publication. Chandigarh.

09-04-2015

S.P. SINGH, Presiding Officer

नई दिल्ली, 18 जून, 2015

का.आ. 1276.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब एण्ड सिंध बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं० 1, चंडीगढ़ के पंचाट (संदर्भ सं. 65/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18.06.2015 को प्राप्त हुआ था।

[सं० एल-12012/31/2013-आई आर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 18th June, 2015

S.O. 1276.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 65/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure, in the industrial dispute between the management of Punjab & Sind Bank and their workmen, received by the Central Government on 18/06/2015.

[No. L-12012/31/2013-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI SURENDRA PRAKASH SINGH, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.

Case No. ID 65 of 2013. Reference No. L-12012/31/2013-IR(B-II) dated 23.05.2013. Sh. Kulwant Singh, S/o Sh. Mohinder Singh, R/o VPO Khandpur, Distt. Kapurthala. (Punjab)

...Workman

Versus

1. The Chairman, Punjab and Sind Bank, Canaught Place, 24 Rajinder Palace, New Delhi.
2. The Zonal Manager, Punjab & Sind Bank, Local H.Q. Sector-17, Chandigarh.
3. The Divisional General Manager, Punjab & Sind Bank, Model Town, Jalandhar, Distt. Jalandhar (Punjab).
4. The Manager Security, Punjab & Sind Bank, Zonal Office, Model Town, Jalandhar (Punjab).
5. The Deputy Director, Distt, Defence Service Welfare Office, Jalandhar (Punjab).

...Respondents

For the Workman : Shri G.S. Raghav, Advocate
For the Management : Shri J.S. Sathi, Advocate

AWARD

Passed on 09.04.2015

1. Government of India Ministry of Labour *vide* notification L-12012/31/2013-IR(B-II) dated 23.05.2013 has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the Management of Punjab & Sind Bank, Jalandhar in terminating the services of Sh. Kulwant Singh son of Shri Mohinder Singh *w.e.f.* 01.08.2012 who was engaged by Punjab & Sind Bank through Distt. Defence Service Welfare Office, Jalandhar is just, valid and legal? If Not, to what relief the workman is entitled for and what directions are necessary in the matter?"

2. The case of the workman as per the claim statement is that he is an ex-Serviceman from defence services and he got his name registered at Distt. Sainik Welfare Office, Jalandhar. The management *i.e.* respondent No. 3 Divisional Zonal Manager and Manager Security wanted the service of the Security Guard and they approached Respondent No. 5 *i.e.* the Deputy Director, District Defence Service Welfare Office Jalandhar. The workman appeared in interview and he was engaged as Security Guard initially in 2008 by Punjab and Sind Bank, Zonal Office Jalandhar after checking of relevant record related with the qualification, experience and relieving certificate issued by the Army and an affidavit was also got executed from the workman by the management. It is pleaded by the workman that he was posted in various branches of bank including ATM machines. He also possessed armed licence and weapon along with ammunition and he remained continuously in

the service of the management from 2008 to 31.07.2012 and completed more than 240 days service in preceding year. It is pleaded by the workman that his services were illegally terminated on 01.08.2012 without any memo, show cause notice, charge-sheet and no inquiry was conducted and termination of the workman is against the provisions of Industrial Dispute Act as there is a relationship of employer and employee between the management and the workman and no retrenchment compensation has been paid to him at the time of termination of his service. It is further pleaded that he was drawing Rs. 7500/- per month and he is jobless since his termination. He prayed for direction to the management to reinstate him in service with continuity and full back wages with all benefits.

3. Management filed written statement. Preliminary objection has been taken that there existed no relationship of employer and employee between the claimant and the management as there was no supervision and control of the management on the workman. The applicant does not come under the umbrella of definition of the workman. It is pleaded by the management that the claimant was appointed by Deputy Director, District Sainik Welfare Officer and he was deputed as Guard in the bank by the District Sainik Welfare Office, Jalandhar and used to get salary/wages from Deputy Director Sainik Welfare Office at the rate offered by the Deputy Director *i.e.* Respondent No. 5 and the same was accepted by the workman also. The statutory deduction of the workman used to be made by Sainik Welfare Office which include provident fund and liability of payment of gratuity. His supervision and control, sanction of leave, disciplinary control was exercised by Deputy Director, District Sainik Welfare Office. It is further pleaded that engagement of Security Guard in the bank through service provider/reputed security agency is *para materia* to engagement of SPOs in the bank through Punjab Police during the terrorism in Punjab and the claimant after his attaining the age of retirement and getting benefits from Government exchequer would not bestow statutes of workman on him and he has no legal right as the bank has within its prerogative to change the service provider/contractor especially when the service provider flatly refused to abide by the ongoing practice ever since the inception of the arrangement. On merits it is pleaded by the management that Security Guards are permitted by the Central Government to engage through contractor and thus they are engaged through agency. The claimant was engaged as Security Guard and deputed in the bank by respondent No. 5 on intermediate days and respondent No. 5 was free to depute any service meant as Guard in the Bank. The claimant was never appointed by the bank. The bank authorities never exercise any supervision or control

over the claimant and management did not maintained any attendance record of the Security Guard deputed by Sainik Welfare Office. As the District Welfare Office had a liberty to depute any serviceman on security and as such it is denied that the claimant ever completed 240 days of continued service in any year, therefore, there is no question of termination of claimant by the bank and there was no need for issuance of any show cause notice, memorandum, charge sheet etc as well as payment of retrenchment compensation. The claimant deputed at the ATM of Punjab and Sind Bank against through Sainik Welfare Office not the employee of the bank and therefore, there is no question of termination of his service and need for compliance of provisions of Industrial Dispute Act, 1947. It is prayed by the management that as the salary/allowance used to be paid by respondent No. 5 at the rate respondent No. 5 deem fit, therefore, he is not entitled to reinstatement in the service of the bank as he was never appointed by the bank and nor any order of termination were passed by the bank, therefore the reference deserved to be rejected.

5. In evidence workman filed his affidavit along with documents. The workman was cross-examined by the learned counsel for the management. The workman in cross-examination admitted that he never submitted any application to the bank for the post of Security Guard nor he was issued any appointment letter. No arms and ammunitions was issued by the bank to him. He also admitted that no letter of terminating his service was issued by the bank. He denied the suggestion that after terminating his services, bank asked him to join the new security agency which was engaged by the bank to provide the Security Guard. The management in evidence submitted affidavit of one Sandeep Singh who also relied on documents Ex. M2 to M10. In cross-examination the witness stated that the workman Kulwant Singh joined the service on 01.02.2008 and his service were terminated on 01.08.2012 and at the time of termination, no notice of termination was issued to him and no departmental inquiry was conducted. His last drawn salary was Rs. 7500/-. He stated in the cross-examination that Bank management exercises control over the work of the workman. He also stated that salary cheque was issued in the name of the District Sainik Welfare, Jalandhar. He also stated that bank has been paying salary to the workman in their saving bank account. He further stated that Sainik Welfare Office authorized the bank to credit the workman salary in their respective accounts and there was no contract of the bank with Sainik Welfare Officer. He also stated that at the time of initial appointment, affidavit was also taken from the workman and para 3 of the affidavit specified that services of the workman can be terminated after paying one month notice. He further stated

that para 1 of the affidavit specified that bank will pay Rs. 5500/- per month towards wages to the workman through District Sainik Welfare Office, Jalandhar, which will be accepted to him. He further stated that in place of the workman other persons were engaged through private agency.

6. I have heard the parties and gone through the evidence and record of the case.

7. The learned counsel for the workman during arguments submitted that the workman was engaged with the management through Deputy Director District Defence Service Welfare Office Jalandhar. He was interviewed by the Manager Security Punjab and Sind Bank, Zonal Office, Jalandhar. It is further submitted by the learned counsel that the payment by cheque made to the workman through Deputy Director District Defence Service Welfare Office Jalandhar. At the time of termination on 1-8-2012 the workman was not given any retrenchment compensation notice for one month or pay in lieu of notice. It is further submitted by the learned counsel for the workman that there exists relationship of employer and employee between the management and the workman.

8. On the other hand, the learned counsel for the management submitted that the applicant was the employee of Deputy Director District Defence Service Welfare Office Jalandhar as he was deputed by the above Agency for security guard duty. The payment of wages used to be made to the above security agency *i.e.* Deputy Director District Defence Service Welfare Office Jalandhar which was responsible for deduction of provident fund and other statutory deductions. It is further submitted that the Deputy Director District Defence Service Welfare Office Jalandhar fixed the wages of the workman and accordingly the same were paid to the workman. The above agency used to be service provider and the management was within its right to take the services of the workman through the above service provider. In the above facts and circumstances, there exists no relationship of employer and employee between the management and the workman and the workman was rightly not engaged *w.e.f.* 1.8.2012 and he is not entitled to any retrenchment compensation, notice of one month or pay in lieu thereof and provisions of Industrial Disputes Act 1947 are not applicable.

9. From the record it is revealed that the workman never submitted any application directly to the management for the post of security guard. It is admitted case of the parties that the workman was not issued any appointment letter. It is also admitted position that workman was registered with Deputy Director District Defence Service Welfare Office Jalandhar who deputed the workman for security duty with

the respondent management. He was also not issued any arms and ammunition by the management. The witness of the management in cross examination stated that workman joined the services on 1-2-2008 with the management and his services were terminated on 1-8-2012. The witness further stated that bank management exercise control on the workman and bank has been paying salary to the workman in his saving bank account and sainik welfare officer authorized the bank to credit the salary in the account of the workman. It is further stated by the witness of the management that at the time of initial appointment affidavit was given by the workman, which specified that services of the workman can be terminated after paying one month notice.

10. Respondent No. 5 *i.e.* Deputy Director District Defence Service Welfare Office Jalandhar did not put up appearance before this court. However vide letter dated 25-6-2013 it is informed by the above that his office was only sponsoring agency and usually asked by the management to call ex-servicemen for interview and selected by security officer of the bank.

11. From the above it is clear that the respondent No. 5 sponsored the workman for guard duty with the management. The salary cheques issued in the name of respondent No. 5 and on authorization the salary used to be credit to the saving account of the workman. Vide letter dated June 2007, it was agreed that ex-servicemen would be paid Rs. 5500/- per month and payment will be routed through respondent No. 5 in the form of DD/Mgr Cheques.

12. Be that as it may, it cannot be denied that workman joined the management bank on 1-2-2008 through respondent No. 5 *i.e.* Deputy Director District Defence Service Welfare Office Jalandhar and worked till 1-8-2012. The management failed to prove that the above respondent No. 5 was the service provider. In the facts and circumstances the workman worked for the respondent management. Admittedly no notice, retrenchment compensation was paid to the workman at the time of termination. It is also the fact that the workman was not issued any appointment letter and termination letter. In the above circumstances, as the workman worked for the management, he is entitled to be paid at least the terminal dues at the time of his termination. The workman worked for the management for almost four years and six months. He is entitled for pay for one month as notice period and retrenchment compensation as per Section 25 F (b) @ 15 days average pay for each completed year of continuous service. Thus the amount so computed comes to Rs. 26500/- making this amount rounded to Rs. 27000/- (twenty seven thousand only). The workman is entitled to get this amount from management respondents No. 1 to 4.

13. The management is directed to pay Rs. 27000/- (twenty seven thousand only) to the workman within one month from the date of publication. The reference is answered accordingly. Central Govt. be informed. Soft as well hard copy be sent to the Central Govt. for publication.

Chandigarh
09.04.2015

S. P. SINGH, Presiding Officer

नई दिल्ली, 18 जून, 2015

का.आ. 1277.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब एण्ड सिंध बैंक के प्रबंधन संयोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 1, चंडीगढ़ के पंचाट (संदर्भ सं. 81/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 18.06.2015 को प्राप्त हुआ था।

[सं एल-12012/24/2013-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 18th June, 2015

S.O. 1277.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 81/2013) of the Central Government Industrial Tribunal Cum Labour Court No. 1 Chandigarh as shown in the Annexure, in the industrial dispute between the management of Punjab & Sind Bank and their workmen, received by the Central Government on 18/06/2015.

[No. L-12012/24/2013-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL-CUM-LABOUR COURT-I,
CHANDIGARH**

Case No. ID 81 of 2013. Reference No. L-12012/24/2013-IR(B-II) dated 30.05.2013. Sh. Baldev Singh son of Shri Gurmukh Singh, resident of Village Kattowal, P.O. Dhaddar, District Hoshiarpur. (Punjab)

Workman

Versus

1. The Chairman, Punjab and Sind Bank, Canaught Place, 24, Rajinder Palace, New Delhi.
2. The Zonal Manager, Punjab and Sind Bank, Local H.Q. Sector-17, Chandigarh.

3. The Divisional General Manager, Punjab & Sind Bank, Model Town, Jalandhar Distt. Jalandhar (Punjab).
4. The Manager Security, Punjab & Sind Bank, Zonal Office, Model Town, Jalandhar (Punjab).
5. The Deputy Director, Distt. Defence Service Welfare Office, Jalandhar (Punjab).

Respondents

For the workman: Shri G.S. Raghav, Advocate

For the management: Shri J.S. Sathi, Advocate

AWARD

Passed on 09.04.2015

1. Government of India Ministry of Labour *vide* notification L-12012/24/2013-IR(B-II) dated 30.5.2013 has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the Management of Punjab & Sind Bank, Jalandhar in terminating the services of Sh. Baldev Singh son of Shri Gurmukh Singh *w.e.f.* 01.08.2012 who was engaged by Punjab & Sind Bank through Distt. Defence Service Welfare Office, Jalandhar is just, valid and legal? If not, to what relief the workman is entitled for and what directions are necessary in the matter?"

2. The case of the workman as per the claim statement is that he is an ex-Service man from defence services and he got his name registered at Distt. Sainik Welfare Office, Jalandhar. The management *i.e.* respondent No. 3 Divisional Zonal Manager and Manager Security wanted the service of the Security Guard and they approached Respondent No. 5 *i.e.* the Deputy Director, District Defence Service Welfare Office Jalandhar. The workman appeared in interview and he was engaged as Security Guard initially in 2008 by Punjab and Sind Bank, Zonal Office Jalandhar after checking of relevant record related with the qualification, experience and relieving certificate issued by the Army and an affidavit was also got executed from the workman by the management. It is pleaded by the workman that he was posted in various branches of bank including ATM machines. He also possessed armed licence and weapon along with ammunition and he remained continuously in the service of the management from 2008 to 31.07.2012 and completed more than 240 days service in preceding year. It is pleaded by the workman that his services were illegally terminated on 01.08.2012 without any memo, show cause notice, charge-sheet and no inquiry was conducted and termination of the workman is against the provisions of Industrial Dispute Act as there is a relationship of employer

and employee between the management and the workman and no retrenchment compensation has been paid to him at the time of termination of his service. It is further pleaded that he was drawing Rs. 7500/- per month and he is jobless since his termination. He prayed for direction to the management to reinstate him in service with continuity and full back wages with all benefits.

3. Management filed written statement. Preliminary objection has been taken that there existed no relationship of employer and employee between the claimant and the management as there was not supervision and control of the management on the workman. The applicant does not come under the umbrella of definition of the workman. It is pleaded by the management that the claimant was appointed by Deputy Director, District Sainik Welfare Officer and he was deputed as Guard in the bank by the District Sainik Welfare Office at the rate offered by the Deputy Director *i.e.* Respondent No. 5 and the same was accepted by the workman used to be made by Sainik Welfare Office which include provident fund and liability of payment of gratuity. His supervision and control, sanction of leave, disciplinary control was exercised by Deputy Director, District Sainik Welfare Office. It is further pleaded that engagement of Security Guard in the bank through service provider/reputed security agency is *para materia* to engagement of SPOs in the bank through Punjab Police during the terrorism in Punjab and the claimant after his attaining the age of retirement and getting benefits from Government exchequer would not bestow statutes of workman on him and he has no legal right as the bank has within its prerogative to change the service provider/contractor especially when the service provider flatly refused to abide by the ongoing practice ever since the inception of the arrangement. On merits it is pleaded by the management that Security Guards are permitted by the Central Government to engage through contractor and thus they are engaged through agency. The claimant was engaged as Security Guard and deputed in the bank by respondent No. 5 on intermediate days and respondent No. 5 was free to depute any service meant as Guard in the Bank. The claimant was never appointed by the bank. The bank authorities never exercise any supervision or control over the claimant and management did not maintained any attendance record of the Security Guard deputed by Sainik Welfare Office. As the District Welfare Office had a liberty to depute any servicemen on security and as such it is denied that the claimant ever completed 240 days of continued service in any year, therefore, there is no question of termination of claimant by the bank and there was no need for issuance of any show cause notice, memorandum, charge sheet etc. as well

as payment of retrenchment compensation. The claimant deputed at the ATM of Punjab and Sind Bank against through Sainik Welfare Office not the employee of the bank and therefore, there is no question of termination of his service and need for compliance of provisions of Industrial Dispute Act 1947. It is prayed by the management that as the salary/allowance used to be paid by respondent No. 5 at the rate respondent No. 5 deem fit, therefore, he is not entitled to reinstatement in the service of the bank as he was never appointed by the bank and nor any order of termination were passed by the bank, therefore the reference deserved to be rejected.

5. In evidence workman filed his affidavit along with documents. The workman was cross-examined by the learned counsel for the management. The workman in cross-examination admitted that he never submitted any application to the bank for the post of Security Guard nor he was issued any appointment letter. No arms and ammunitions was issued by the bank to him. He also admitted that no letter of terminating his service was issued by the bank. He denied the suggestion that after terminating his services, bank asked him to join the new security agency which was engaged by the bank to provide the Security Guard. The management in evidence submitted affidavit of one Sandeep Singh who also relied on documents Ex. M2 to M9. In cross-examination the witness stated that the workman Baldev Singh joined the service on 13.8.2008 and his service were terminated on 01.08.2012 and at the time of termination, no notice of termination was issued to him and no departmental inquiry was conducted. His last drawn salary was Rs. 7500/-. He stated in the cross-examination that bank management exercises control over the work of the workman. He also stated that salary cheque was issued in the name of District Sainik Welfare, Jalandhar. He also stated that bank has been paying salary to the workman in their saving bank account. He further stated that Sainik Welfare Office authorized the bank to credit the workman salary in their respective accounts and there was no contract of the bank with Sainik Welfare Officer. He also stated that at the time of initial appointment, affidavit was also taken from the workman and para 3 of the affidavit specified that services of the workman can be terminated after paying one month notice. He further stated that para 1 of the affidavit specified that bank will pay Rs. 5500/- per month towards wages to the workman through District Sainik Welfare Office, Jalandhar, which will be accepted to him. He further stated that in place of the workman other person were engaged through private agency.

6. I have heard the parties and gone through the evidence and record of the case.

7. The learned counsel for the workman during arguments submitted that the workman was engaged with the management through Deputy Director District Defence Service Welfare Office Jalandhar. He was interviewed by the Manager Security Punjab and Sind Bank, Zonal Office, Jalandhar. It is further submitted by the learned counsel that the payment by cheque made to the workman through Deputy Director District Defence Service Welfare Office Jalandhar. At the time of termination on 1-8-2012 the workman was not given any retrenchment compensation notice for one month or pay in lieu of notice. It is further submitted by the learned counsel for the workman that there exists relationship of employer and employee between the management and the workman.

8. On the other hand, the learned counsel for the management submitted that the applicant was the employee for Deputy Director District Defence Service Welfare Office Jalandhar as he was deputed by the above Agency for security guard duty. The payment of wages used to be made to the above security agency *i.e.* Deputy Director District Defence Service Welfare Office Jalandhar which was responsible for deduction of provident fund and other statutory deductions. It is further submitted that the Deputy Director District Defence Service Welfare Office Jalandhar fixed the wages of the workman and accordingly the same were paid to the workman. The above agency used to be service provider and the management was within its right to take the services of the workman through the above service provider. In the above facts and circumstances, there exists no relationship of employer and employee between the management and the workman and the workman was rightly not engaged *w.e.f.* 1.8.2012 and he is not entitled to any retrenchment compensation, notice of one month or pay in lieu thereof and provisions of Industrial Disputes Act 1947 are not applicable.

9. From the record it is revealed that the workman never submitted any application directly to the management for the post security guard. It is admitted case of the parties that the workman was not issued any appointment letter. It is also admitted position that workman was registered with Deputy Director District Defence Service Welfare Office Jalandhar who deputed the workman for security duty with the respondent management. He was also not issued any arms and ammunition by the management. The witness of the management in cross examination stated that workman joined the services on 13.8.2008 with the management and his services were terminated on 1-8-2012. The witness further stated that bank management exercise control on the workman and bank has been paying salary to the workman in his saving bank account and Sainik Welfare Officer authorized the bank to credit the salary in the account

of the workman. It is further stated by the witness of the management that at the time of initial appointment affidavit was given by the workman, which specified that services of the workman can be terminated after paying one month notice.

10. Respondent No. 5 *i.e.* Deputy Director District Defence Service Welfare Office Jalandhar did not put up appearance before this court. However *vide* letter dated 25-6-2013 it is informed by the above that his office was only sponsoring agency and usually asked by the management to call ex-servicemen for interview and selected by security officer of the bank.

11. From the above it is clear that the respondent No. 5 sponsored the workman for guard duty with the management. The salary cheques issued in the name of respondent No. 5 and on authorization the salary used to be credit to the saving account of the workman. *Vide* letter dated June 2007, it was agreed that ex-servicemen would be paid Rs. 5500/- per month and payment will be routed through respondent no. 5 in the form of DD/Mgr Cheques.

12. Be that as it may, it cannot be denied that workman joined the management bank on 13.8.2008 through respondent No. 5 *i.e.* Deputy Director District Defence Service Welfare Office Jalandhar and worked till 1-8-2012. The management failed to prove that the above respondent No. 5 was the service provider. In the facts and circumstances the workman worked for the respondent management. Admittedly no notice, retrenchment compensation was paid to the workman at the time of termination. It is also that the workman was not issued any appointment letter and termination letter. In the above circumstances, as the workman worked for the management, he is entitled to be paid at least the terminal dues at the time of his termination. The workman worked for the management for almost four years. He is entitled for pay for one month as notice period and retrenchment compensation as per Section 25 F (b) @ 15 days average pay for each completed year of continuous service. Thus the amount so computed comes to Rs. 22500/- making this amount rounded to Rs. 23000/- (twenty three thousand only). The workman is entitled to get this amount from management respondents No. 1 to 4.

13. The management is directed to pay Rs. 23000/- (twenty three thousand only) to the workman within one month from the date of publication. The reference is answered accordingly. Central Govt. be informed. Soft as well hard copy be sent to the Central Govt. for publication.

Chandigarh
09.04.2015

S. P. SINGH, Presiding Officer

नई दिल्ली, 18 जून, 2015

AWARD

Passed on 09.04.2015

का.आ. 1278.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब एण्ड सिंध बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय नं० 1, चंडीगढ़ के पंचाट (82/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 18.06.2015 को प्राप्त हुआ था।

[सं० एल-12012/33/2013-आई आर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 18th June, 2015

S.O. 1278.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 82/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1 Chandigarh as shown in the Annexure, in the industrial dispute between the management of Punjab & Sind Bank and their workmen, received by the Central Government on 18/06/2015.

[No. L-12012/33/2013-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH**

Case No. ID 82 of 2013. Reference No. L-12012/33/2013-IR(B-II) dated 29.05.2013. Sh. Navreet Singh son of Shri Gurucharan Singh R/o Village Aladinpur, PO Khosropur, District Jalandhar (Punjab).

...Workman

Versus

1. The Chairman, Punjab and Sind Bank, Canaught Place, 24, Rajinder Palace, New Delhi.
2. The Zonal Manager, Punjab & Sind Bank, Local H.Q.Sector-17, Chandigarh.
3. The Divisional General Manager, Punjab & Sind Bank, Model Town, Jalandhar, Distt. Jalandhar(Punjab).
4. The Manager Security, Punjab & Sind Bank, Zonal Officer, Model Town, Jalandhar(Punjab).
5. The Deputy Director, Distt, Defence Service Welfare Office Jalandhar(Punjab).

...Respondent

For the workman: Shri G.S. Raghav, Advocate

For the management : Shri J.S. Sathi, Advocate

1. Government of India Ministry of Labour vide notification L-12012/33/2013-IR(B-II) dated 29.05.2013 has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the Management of Punjab & Sind Bank, Jalandhar in terminating the services of Sh. Navreet Singh son of Shri Gurcharan Singh w.e.f. 01.08.2012 who was engaged by Punjab & Sind Bank through Distt. Defence Service Welfare Office, Jalandhar is just, valid and legal? If not, to what relief the workman is entitled for and what directions are necessary in the matter?"

2. The case of the workman as per the claim statement is that he is an ex-Service man from defence services and he got his name registered at Distt. Sainik Welfare Office, Jalandhar. The management i.e. respondent No. 3 Divisional Zonal Manager and Manager Security wanted the service of the Security Guard and they approached Respondent No. 5 i.e. the Deputy Director, District Defence Service Welfare Office Jalandhar. The workman appeared in interview and he was engaged as Security Guard initially in 2005 by Punjab and Sind Bank, Zonal Office Jalandhar after checking of relevant record related with the qualification, experience and relieving certificate issued by the Army and an affidavit was also got executed from the workman by the management. It is pleaded by the workman that he was posted in various branches including ATM machines. He also possessed armed licence and weapon along with ammunition and he remained continuously in the service of the management from 2005 to 31.07.2012 and completed more than 240 days service in preceding year. It is pleaded by the workman that his services were illegally terminated on 01.08.2012 without any memo, show cause notice, charge-sheet and no inquiry was conducted and termination of the workman is against the provisions of Industrial Dispute Act as there is a relationship of employer and employee between the management and the workman and no retrenchment compensation has been paid to him at the time of termination of his service. It is further pleaded that he was drawing Rs. 7500/- per month and he is jobless since his termination. He prayed for direction to the management to reinstate him in service with continuity and full back wages with all benefits.

3. Management filed written statement. Preliminary objection has been taken that there existed no relationship of employer and employee between the claimant and the management as there was no supervision and control of the management on the workman. The applicant does not come under the umbrella of definition of the workman. It is pleaded by the management that the claimant was appointed by Deputy Director, District Sainik Welfare Officer and he

was deputed as Guard in the bank by the District Sainik Welfare Officer, Jalandhar and used to get salary/wages from Deputy Director Sainik Welfare Office at the rate offered by the Deputy Director *i.e.* Respondent No. 5 and the same was accepted by the workman also. The statutory deduction of the workman used to be made by Sainik Welfare Office which include provident fund and liability of payment of gratuity. His supervision and control, sanction of leave, disciplinary control was exercised by Deputy Director, District Sainik Welfare Office. It is further pleaded that engagement of Security Guard in the bank through service provider/reputed security agency is *para materia* to engagement of SPOs in the bank through Punjab Police during the terrorism in Punjab and the claimant after his attaining the age of retirement and getting benefits from Government exchequer would not bestow statutes of workman on him and he has no legal right as the bank has within its prerogative to change the service provider/contractor especially when the service provider flatly refused to abide by the ongoing practice ever since the inception of the arrangement. On merits it is pleaded by the management that Security Guards are permitted by the Central Government to engage through contractor and thus they are engaged through agency. The claimant was engaged as Security Guard and deputed in the bank by respondent No. 5 on intermediate days and respondent No. 5 was free to depute any service meant as Guard in the Bank. The claimant was never appointed by the bank. The bank authorities never exercise any supervision or control over the claimant and management did not maintained any attendance record of the Security Guard deputed Sainik Welfare Office. As the District Welfare Office had liberty to depute any serviceman on security and as such it is denied that the claimant ever completed 240 days of continued service in any year, therefore, there is no question of termination of claimant by the bank and there was no need for issuance of any show cause notice, memorandum, charge sheet etc. as well as payment of retrenchment compensation. The claimant deputed at the ATM of Punjab and Sind Bank against through Sainik Welfare Office not the employee of the bank and therefore, there is no question of termination of his service and need for compliance of provisions of Industrial Dispute Act 1947. It is prayed by the management that as the salary/allowance used to be paid by respondent No. 5 at the rate respondent No. 5 deem fit, therefore, he is not entitled to reinstatement in the service of the bank as he was never appointed by the bank and nor any order of termination were passed by the bank, therefore the reference deserved to be rejected.

5. In evidence workman filed his affidavit along with documents. The workman was cross-examined by the learned counsel for the management. The workman in cross-examination admitted that he never submitted any

application to the bank for the post of Security Guard nor he was issued any appointment letter. No arms and ammunitions were issued by the bank to him. He also admitted that no letter of terminating his service was issued by the bank. He denied the suggestion that after terminating his services, bank asked him to join the new security agency which was engaged by the bank to provide the Security Guard. The management in evidence submitted affidavit of one Sandeep Singh who also relied on documents Ex. M2 to M11. In cross-examination the witness stated that the workman Navreet Singh joined the service on 01.05.2008 and his service were terminated on 01.08.2012 and at the time of termination, no notice of termination was issued to him and no departmental inquiry was conducted. His last drawn salary was Rs. 7500/-. He stated in the cross-examination that bank management exercises control over the work of the workman. He also stated that salary cheque was issued in the name of District Sainik Welfare, Jalandhar. He also stated that bank has been paying salary to the workman in their saving bank account. He further stated that Sainik Welfare Office authorized the bank to credit the workman salary in their respective accounts and there was no contract of the bank with Sainik Welfare Officer. He also stated that at the time of initial appointment, affidavit was also taken from the workman and para 3 of the affidavit specified that services of the workman can be terminated after paying one month notice. He further stated that para 1 of the affidavit specified that bank will pay Rs. 5500/- per month towards wages to the workman through District Sainik Welfare Office, Jalandhar, which will be accepted to him. He further stated that in place of the workman other persons were engaged through private agency.

6. I have heard the parties and gone through the evidence and record of the case.

7. The learned counsel for the workman during arguments submitted that the workman was engaged with the management through Deputy Director District Defence Service Welfare Office Jalandhar. He was interviewed by the Manager Security Punjab and Sind Bank, Zonal Office, Jalandhar. It is further submitted by the learned counsel that the payment by cheque made to the workman through Deputy Director District Defence Service Welfare Office Jalandhar. At the time of termination on 1-8-2012 the workman was not given any retrenchment compensation notice for one month or pay in lieu of notice. It is further submitted by the learned counsel for the workman that there exists relationship of employer and employee between the management and the workman.

8. On the other hand, the learned counsel for the management submitted that the applicant was the employee of Deputy Director District Defence Service Welfare Office Jalandhar as he was deputed by the above Agency for security guard duty. The payment of wages used to be made to the above security agency *i.e.* Deputy Director

District Defence Service Welfare Office Jalandhar which was responsible for deduction of provident fund and other statutory deductions. It is further submitted that the Deputy Director District Defence Service Welfare Office Jalandhar fixed the wages of the workman and accordingly the same were paid to the workman. The above agency used to be service provider and the management was within its right to take the services of the workman through the above service provider. In the above facts and circumstances, there exists no relationship of employer and employee between the management and the workman and the workman was rightly not engaged *w.e.f.* 1.8.2012 and he is not entitled to any retrenchment compensation, notice of one month or pay in lieu thereof and provisions of Industrial Disputes Act 1947 are not applicable.

9. From the record it is revealed that the workman never submitted any application directly to the management for the post of security guard. It is admitted case of the parties that the workman was not issued any appointment letter. It is also admitted position that workman was registered with Deputy Director District Defence Service Welfare Office Jalandhar who deputed the workman for security duty with the respondent management. He was also not issued any arms and ammunition by the management. The witness of the management in cross examination stated that workman joined the services on 1.5.2008 with the management and his services were terminated on 1.8.2012. The witness further stated that bank management exercise control on the workman and bank has been paying salary to the workman in his saving bank account and sainik welfare officer authorized the bank to credit the salary in the account of the workman. It is further stated by the witness of the management that at the time of initial appointment affidavit was given by the workman, which specified that services of the workman can be terminated after paying one month notice.

10. Respondent no. 5 *i.e.* Deputy Director District Defence Service Welfare Office Jalandhar did not put up appearance before this court. However *vide* letter dated 25-6-2013 it is informed by the above that his office was only sponsoring agency and usually asked by the management to call ex-servicemen for interview and selected by security officer of the bank.

11. From the above it is clear that the respondent no. 5 sponsored the workman for guard duty with the management. The salary cheques issued in the name of respondent no. 5 and on authorization the salary used to be credit to the saving account of the workman. *Vide* letter dated June 2007, it was agreed that ex-servicemen would be paid Rs. 5500/- per month and payment will be routed through respondent no. 5 in the form of DD/Mgr Cheques.

12. Be that as it may, it cannot be denied that workman joined that management bank on 1.5.2008 through

respondent no. 5 *i.e.* Deputy Director District Defence Service Welfare Office Jalandhar and worked till 1-8-2012. The management failed to prove that the above respondent no. 5 was the service provider. In the facts and circumstances the workman worked for the respondent management. Admittedly no notice, retrenchment compensation was paid to the workman at the time of termination. It is also the fact that the workman was not issued any appointment letter and termination letter. In the above circumstances, as the workman worked for the management, he is entitled to be paid at least the terminal dues at the time of his termination. The workman worked for the management for four years and two months. He is entitled for pay for one month as notice period and retrenchment compensation as per Section 25 F (b) @ 15 days average pay for each completed year of continuous service. Thus the amount so computed comes to Rs. 22500/- making this amount rounded to (twenty three thousand only). The workman is entitled to get this amount from management respondents No. 1 to 4.

13. The management is directed to pay Rs. 23000/- (twenty three thousand only) to the workman within one month from the date of publication. The reference is answered accordingly. Central Govt. be informed. Soft as well hard copy be sent to the Central Govt. for publication.

Chandigarh
09-04-2015

S. P. SINGH, Presiding Officer

नई दिल्ली, 19 जून, 2015

का.आ. 1279.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफसीआई के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 1, धनबाद के पंचाट वाद संख्या 2/2014 (संदर्भ संख्या 138/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/06/2015 को प्राप्त हुआ था।

[सं० एल-22012/170/1996-आईआर (सी-II)]

मो० जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 19th June, 2015

S.O. 1279.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Complaint No. 2/2014 (Arising out of Ref. No. 138/97) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of FCI and their workmen, received by the Central Government on 19/6/2015.

[No. L-22012/170/1996-IR(C-II)]

MD. ZAHID SHARIF, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 1) DHANBAD**

In the matter of complaint U/s 33(a) of I.D. Act, 1947.

Complaint No. 2/2014

(Arising out of Ref. No. 138/97)

Ministry Order No. L 22012/170/96-IR (C-II)

VijayendraKumar, AG II (D)
Food Corporation of India, Area Officer
Firdause Building
Exhibition Road, Patna.....Complainant

Vs.

1. Executive Director (EZ) F.C.I
10 A Middleton Row, Kolkata 71
2. General Manager,
F.C.I. Arunachal Building
Exhibition Road, Patna
3. General Manager
F.C.I. Khadya Bhawan, Bani Bihar
Bhubneshwar
4. Area Manager
F.C.I Firdaus Building
Exhibition Road, Patna-1..... Opp. Party

Present: Sri Ranjan Kumar Saran,

Presiding Officer

Appearances:

For Complaint. : Sri V. Kumar,
For Opp. Party No. III : Sri D.K. Sethi,
State : Bihar.
Industry : Food

Dated:19/5/2015

AWARD

2. Complaint received on 23.01.2014, which arises out of Ref. No. 138 of 1997. Admitted the same. Notice Issued to other side. This complaint is on the ground that, Admittedly Ref. No. 138/97 is pending, in which the present complainant is a workman concerned, while a reference case is pending before this Tribunal, can the workman concerned be transferred from one region to another region. Whether his transfer is *malafide*? Whether the transferred workman was allowed time to hand over entire charge of his office, cash, godown etc. to a proper workman notified by the management or not.

3. On the other hand whether the present workman's complaint is maintainable? Another fact that when for the

self same relief the workman became unsuccessful before the Hon'ble High Court and Hon'ble Apex Court, can again he comes to this Tribunal.

4. Hon'ble Apex Court, in the case in hand said that "the case is dismissed, workman may seek relief in appropriate forum". It is submitted by the workman that he ultimately approached this Tribunal.

5. It is not disputed that the workman concerned is not the Union leader. From his transfer, it appears that the workman has been discriminated. Even no substitute was nominated in the order as to whom the transferred would hand over charge.

6. Food corporation of India staff has to handle bigger responsibility *i.e.* food grain storage and collection of cash. Unless the charge is handed over to a responsible nominated person one cannot be fully released. More over transfer at fag end of service *i.e.* the superannuation is on 31.01.2014 is anti labour practice when the reference is pending. There was no problem for the management to take permission of this Tribunal, before transferring workman according to law.

7. It is seen from the management of FCI that they are spending more on litigation than on welfare of the labour force. In just case action should be taken. This Tribunal would not have commented like above. In the circumstances the present complaint is bound to succeed and the workman be placed in his place prior to his transfer to other region, Since he has not been relived from Patna in question of issuance of chargesheet dt. 30.01.14 for not joining Orissa region does not arise. Complaint Succeeds..

This is my award.

R.K. SARAN, Presiding Officer

नई दिल्ली, 19 जून, 2015

का.आ. 1280.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीबीएमबी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय ने 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 1542/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/6/2015 को प्राप्त हुआ था।

[सं एल-23012/1/2008-आईआर (सीएम-II)]

मो० जाहिर शरीफ, अनुभाग अधिकारी

New Delhi, the 19th June, 2015

S.O. 1280.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1542/2008) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure, in the industrial

dispute between the management of Circle, BBMB, and their workmen, received by the Central Government on 19/06/2015.

[No. L-23012/1/2008-IR(CM-II)]
MD. ZAHID SHARIF, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

PRESENT: SRI KEWAL KRISHAN, Presiding Officer

Case I.D. No. 1542/2008

Registered on 26.5.2008

Sh. Ram Lal, S/o Sh. Sant Ram, C/o Sh. R.K. Singh Parmar,
General Secretary, Pb.INTUC, 211-L Brari, PO Partap Nagar,
Nangal Dam, Ropar.

...Petitioner

Versus

The superintending Engineer, Dehar Power House
Circle, BBMB (Power Wing), Slapper, Distt. Mandi (HP)
Mandi.

...Respondents

Appearances

For the workman Sh. R.K. Parmar, A.R.

For the Management Sh. Ravinder Sharma, Adv.

AWARD

Passed on 29.5.2015

Central Government *vide* Notification No. L-23012/1/2008-IR(CM-II) Dated 19.5.2008, by exercising its powers under Section 10 Sub-section (1) Clause (d) and Sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the management of BBMB in not engaging Sh. Ram Lal, a retrenched workman while engaging fresh casual labourers in November, 2006 is legal and justified? To what relief is the claimant entitled?"

In response to the notice, the workman appeared and submitted statement of claim pleading that he served the respondent management from 1984 to 1993 as unskilled worker and was retrenched. It is further pleaded that management was making recruitments in a particular category but he was ignored. That new hands were recruited *w.e.f.* 1.1.2006 but he was not re-employed. The management adopted the method of pick and choose and caused loss to him. That he was entitled to be re-employed as per Section

25H of the Act and the action of the management in not providing employment to him is improper and he is entitled to full back wages.

Management submitted a written statement on 26.5.2010 pleading that the workman from 1984 to 1993 on daily wage basis for casual and seasonal work. It is further pleaded that some workmen were engaged in November, 2006 on contract basis and the workman along with others was also called for interview, but he did not appear. He was again called for temporary work but he refused to work stating that his case was pending in the Court. That the claim raised by the workman is false.

Parties were given opportunities to lead their evidence.

In Support of this case the workman appeared in witness box and filed his affidavit reiterating the stand as taken in the claim petition.

On the other hand, the management has examined Sh. K.L. Kalra, who filed his affidavit reiterating the stand of the management.

I have heard Sh. R.K. Parmar, AR of the workman and Sh. Ravinder Sharma, counsel for the management.

The undisputed facts are that workman worked with the respondent management as unskilled worker from 1984 to 1993 when his services were retrenched, though it is the case of the management that he was engaged as daily wage worker for casual and seasonal work. It is again in admitted case that the management engaged some workers in November, 2006. It is the case of the management that the workman was called for interview but he did not appear. He was again called for temporary work but he refused to come stating that his case was pending in the Court. It was so deposed by Sh. K.L. Kalra, but he did not produce any record to establish that the workman was actually called in November, 2006 and thereafter he has stated that the letter was sent through registered post but no postal receipt is placed on record or other record of the management to prove that intimation was sent to the workman to come and work with the management. Sh. K.L. Kalra has further deposed during cross-examination that workman was called in 2009 and letter dated 13.10.2009 Annexure-4 is also placed on the file showing that workman was offered employment for 30 days as Baildar. This statement on the part of Sh. K.L. Kalra along with letter Annexure-A4 totally belies the case of the management that workman was informed in November, 2006 when some workers were employed and he was again called for work but he refused. Since it is the admitted case that workman is a retrenched employee and therefore preference should be given to him for re-employment as per Section 25F of the Act. The management employed certain persons in

November, 2006 but preference was not given to the workman and therefore this act of the management in not engaging the workman while engaging fresh casual labour in November, 2006 is not legal and justified.

Now the next question which needs determination is to what amount the claimant is entitled to by way of compensation.

Though, the workman pleaded that the workmen were employed in November, 2006 who are still continuing in service, but there is no evidence to corroborate this fact and in the absence of the any documentary evidence, it cannot be said that the workman re-employed in November, 2006 has been continuously working till date. There is no evidence to establish the salary of the workman when he was employed with the management. Therefore, the compensation payable to the workman cannot be assessed. However, by doing the guess work the management is to be ordered to pay Rs. 50,000/- as compensation to the workman for not giving him employment in November, 2006.

In result, the reference is answered holding that the action of the management in not engaging the workman while engaging fresh casual labourer in November, 2006 is not legal and he is entitled to Rs. 50,000/- by way of compensation from the management who shall pay the same within 2 months from the publication of the award failing which the workman will be entitled to get interest at the rate of 6 per cent per annum from the date of the award till realization. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 19 जून, 2015

का.आ. 1281.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीबीएमबी के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 2 चंडीगढ़ के पंचाट (संदर्भ संख्या 620/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/6/2015 को प्राप्त हुआ था

[सं० एल-23012/10/2001-आई आर (सीएम-II)]

मो० जाहिर शरीफ, अनुभाग अधिकारी

New Delhi, the 19th June, 2015

S.O. 1281.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 620/2005) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure, in the industrial dispute between the management of BBMB, and their workmen, received by the Central Government on 19/06/2015.

[No. L-23012/10/2001-IR(CM-II)]

MD. ZAHID SHARIF, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

PRESENT : SRI KEWAL KRISHAN, Presiding Officer.

Case I.D. No. 620/2005

Registered on 24.8.2005

Sh. Ajit Singh, C/o Sh. R.K. Singh Parmar, 211-L, Brari, PO Partap Nagar, Nangal Dam, Ropar

...Petitioner

Versus

The Chief Engineer (Power Wing) Generation, BBMB, Nangal Township, Ropar.

...Respondents

Appearances

For the workman Sh. R.K. Parmar, A.R.

For the Management Sh. N.K. Zakhmi, Adv.

AWARD

Passed on 21/5

Central Government *vide* Notification No. L-23012/10/2001-IR (CM-II) Dated 3.5.2002, by exercising its powers under Section 10 Sub-section (1) Clause (d) and Sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the Chief Engineer (Power Wing) Generation, BBMB Nangal Township, Ropar in terminating the service of Sh. Ajit Singh S/o Sh. Puran Singh *w.e.f.* 7.7.2000 is legal and justified? If not, to what relief the workman is entitled to and from which date?"

In response to the notice, the workman appeared and submitted statement of claim pleading that he was engaged as Grinderman in a work charge capacity at Ganguwal and Kotla Power Houses *w.e.f.* 8.5.1997 where he continuously worked till 28.2.1999. He was again employed *w.e.f.* 9.2.2000 to 7.7.2000. That he has completed 240 days of continuous service in a calendar month but his services were terminated without giving him any compensation or seeking any permission from the Government. Therefore his termination is illegal and void.

Respondent management pleaded that the workman was engaged purely on contract basis for a specific period *vide* letter dated 28.4.1997 (Exhibit MW1/1) for a period of six months, and again for another period of six months *vide* letter dated 7.11.1997 (Exhibit MW1/2). After considerable time, the workman again made a request to the management and he was engaged *vide* appointment letter dated 8.2.2000

and since he was engaged for a specific period and on the expiry of the period, his services came to an end automatically and his case do not fall within the definition of retrenchment. That the workman is not entitled to any relief.

Parties were given opportunities to lead their evidence.

In support of his case the workman appeared in the witness box and filed his affidavit reiterating the case as set in the claim petition.

On the other hand, the management examined Sh. A.K. Mehta, who filed his affidavit along with the documents reiterating the stand of the management.

I have heard Sh. R.K. Singh Parmar, AR of the workman and Sh. N.K. Zakhmi, counsel for the management.

It was argued by the learned counsel for the workman that workman was engaged from time to time by issuing fresh appointment letters which is an unfair labour practice and otherwise the work was of continuous nature and his services were not liable to be terminated.

The reference is whether the action of the management in terminating the services of the workman *w.e.f.* 7.7.2000 is legal. As per appointment letters dated 28.4.1997 (Exhibit MW1/1), 7.11.1997 (Exhibit MW1/2), 5.6.1998 Exhibit MW1/3 and January, 1999 Exhibit MW1/6, the workman was employed on a work charge post for a specific period which find mention therein and it is the case of the workman that he worked only upto 28.2.1999 and was re-engaged on 9.2.2000. An agreement was also executed between the parties as is clear from the photocopy of the agreement Exhibit MW1/8 and it is clearly mentioned therein that the contract of employment was only upto 7.7.2000 and in pursuance of the said contract the appointment letter dated 8.2.2000 Exhibit MW1/9 was issued. Thus, the workman was lastly employed for a specific period and on the expiry of the contractual period, his services came to an end and his case do not fall within the definition of 'retrenchment' Retrenchment is defined under Section 2(oo) which reads as follows:-

2(oo)- Retrenchment means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include-

- (a) Voluntary retirement of the workman; or
- (b) Retirement of the workman on reaching the age of superannuation if the contract of employment

between the employer and the workman concerned contains a stipulation in that behalf.

Thus, as per Clause 'bb' the termination of the service as a result of non-renewal of contract or the expiry of the such contract, the same do not amount to 'retrenchment'. Since in the present case the service was on contract basis and for a specific period and on the expiry of the period it automatically came to an end and therefore the disengagement of the workman do not fall within the definition of 'retrenchment' and he is not entitled to any compensation.

In the Circumstances, the contention of the learned counsel that the management entered into unfair labour practice is without any basis. The provisions of Section 25G and 25H are also not applicable in the present case.

The services of the workman came to an end on 7.7.2000 and it is his own case that he was engaged only on 9.2.2000 and therefore it cannot be said that he completed 240 days of continuous service preceding the date of his disengagement and on that account also he cannot claim any retrenchment compensation.

In result, the reference in answered against the workman and he is not entitled to any relief. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 19 जून, 2015

का.आ. 1282.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीबीएमबी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 207/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/06/2015 को प्राप्त हुआ था।

[सं० एल-23012/13/2001-आई आर (सीएम-II)]

मो० जाहिर शरीफ, अनुभाग अधिकारी

New Delhi, the 19th June, 2015

S.O. 1282.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 207/2005) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure, in the industrial dispute between the management of BBMB, and their workmen, received by the Central Government on 19/06/2015.

[No. L-23012/13/2001-IR(CM-II)]

MD. ZAHID SHARIF, Section Officer

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH****Present :** Sri Kewal Krishan, Presiding Officer.**Case No. I.D. No. 207/2005**

Registered on 3.8.2005

Sh. Amarjit Singh, C/o Sh. R.K. Singh Parmar, 211-L,
Brari, PO Partap Nagar, Nandal Dam, Ropar

...Petitioner

VersusThe Chief Engineer (Power Wing) Generation, BBMB,
Nangal Township, Ropar.

...Respondents

APPEARANCES:

For the Workman Sh. R.K. Parmar, A.R.

For the Management Sh. Rajinder Singh,
Law Officer.**AWARD****Passed on 27/5/2015**

Central Government vide Notification No. L-23012/13/2001-IR(CM-II) Dated 30.4.2002, by exercising its powers under Section 10, sub-section (1) Clause (d) and sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

"Whether the action of the Chief Engineer (Power Wing) Generation, BBMB Nangal Township, Ropar in terminating the service of Sh. Amarjit Singh S/o Sh. Rattan Singh *w.e.f.* 4.7.2000 is legal and justified? If not, to what relief the workman is entitled to?"

In response to the notice, the workman appeared and submitted statement of claim pleading that he was employed as a Rigger by the respondent management in the Ganguwal and Kotla Power Houses *w.e.f.* 8.5.1997 and he continuously worked till 28.2.1999. He was again employed on 8.2.2000 till 4.7.2000. That his services were terminated without complying with the provisions of Section 25F of the Act. He completed more than 240 days of continuous service. The provisions of Section 25G and 25H of the Act were also not complied.

The respondent management filed written reply pleading that the workman was employed on contract basis for a specific period and for a specific work. He was firstly engaged vide appointment letter dated 28.4.1997 as Rigger for six months, and again vide appointment letter dated 7.11.1997 for another six months; and again vide letter dated

5.6.1998 for another six months; and on the expiry of the contract period his services automatically came to an end. He again approached the respondent management and he was issued a fresh appointment letter dated 5.2.2000 on contract basis and the period of service was upto 4.7.2000. On the expiry of the said period his services came to an end. Since the workman was working on contract basis for a specific work and as such his case do not fall within the definition of 'retrenchment' and he is not entitled to any compensation. It is also denied that he completed 240 days of continuous service in any calendar year.

Parties were given opportunity to lead evidence.

The workman appeared in the witness box and filed his affidavit reiterating the case as set out in the claim petition.

On the other hand, the management has examined Sh. A.K. Mehta, who filed his affidavit along with the documents reiterating the stand taken by the management.

It was argued by the learned counsel for the workman that workman was engaged from time to time by issuing fresh appointment letters which is an unfair labour practice and otherwise the work was of continuous nature and his services were not liable to be terminated.

I have considered the contention of the learned counsel.

It may be added that the reference is whether the termination of the workman *w.e.f.* 4.7.2000 is legal and justified. The appointment letter dated 28.4.1997 Exhibit MW1/1, 7.11.1997 Exhibit MW1/2 and dated 5.8.1998 Exhibit MW1/3 has been placed on the record which clearly shows that the workman was engaged on contract basis for a specific period i.e. for six months from time to time only and it is his own case that his services came to an end on 28.2.1999. Again it is the case of the workman that he was engaged *w.e.f.* 8.2.2000 to 4.7.2000. Thus after the disengagement of the workman in the year 1999, he was engaged in February, 2000. There is an appointment letter Exhibit MW5 which was issued in pursuance of the agreement Exhibit WW1/5 executed between the workman and the management and perusal of the agreement and the letter clearly shows that the workman was engaged only upto 4.7.2000 and that too for a specific work for renovating, modernization etc. of machines. Since, he was engaged on contract basis for a specific period, his services came to an end on the expiry of the contract period i.e. 4.7.2000 and since he worked from 8.2.2000 to 4.7.2000 as pleaded by him, it cannot be said that he completed 240 days of continuous service in a calendar period prior to the termination of his services. Retrenchment is defined under Section 2(oo) which reads as follows:-

2(oo)- Retrenchment means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include-

(a) Voluntary retirement of the workman; or

(b) Retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf.

Thus, as per Clause 'bb' the termination of the service as a result of non-renewal of contract or the expiry of the such contract, the same do not amount to 'retrenchment'. Since in the present case the service was on contract basis and for a specific period and on the expiry of the period it automatically came to an end and therefore the disengagement of the workman do not fall within the definition of 'retrenchment' and he is not entitled to any compensation.

In the Circumstances, the contention of the learned counsel that the management entered into unfair labour practice is without any basis. The provisions of Section 25G and 25H are also not applicable in the present case.

The reference is accordingly answered against the workman and it is held that he is not entitled to any relief. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 19 जून, 2015

का.आ. 1283.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफसीआई के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 1305/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 19/06/2015 को प्राप्त हुआ था।

[सं एल-22012/340/2006-आईआर (सीएम-II)]

मो० जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 19th June, 2015

S.O. 1283.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1305/2007) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Chandigarh as show in the Annexure, in the industrial dispute between the management of Food Corporation of India, and their workmen, received by the Central Government on 19/06/2015.

[No. L-22012/340/2006-IR (CM-II)]

MD. ZAHID SHARIF, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT II, CHANDIGARH.

Present; Sri Kewal Krishan, Presiding Officer

Case No. I.D. No. 1305/2007

Registered on 4.5.2007

Sh. Sultan Singh S/o Sh. Man Singh, resident of Village Dadupur Rodan, P.O. Sirsi, Karnal

...Petitioner

Versus

The District Manager, Food Corporation of India, Distt, Karnal, Haryana

...Respondents

APPEARANCES

For the Workman Sh. Jagtar Kureel, Adv.

For the Management Sh. N.K. Zakhmi, Adv.

AWARD

Passed on 29.5.2015

Central Government vide Notification No. L-22012/340/2006-IR(CM-II) Dated 15.3.2007, by exercising its powers under Section 10 sub-section (1) Clause (d) and sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the management of FCI in terminating the services of Sh. Sultan Singh, Security Guard s/o Sh. Man Singh w.e.f. 9.10.2000 is legal and justified? If not, to what relief is the workman entitled to?"

In response to the notice, the workman appeared and submitted statement of claim pleading that he was working as a Security Guard since 1986 with the respondent management who terminated his services vide letter dated 9.10.2000. It is pleaded that a case was filed for regularization of his services and instead of regularizing his services, he was terminated. That he has completed 240 days of service in a calendar year and he was not paid retrenchment compensation. That the persons junior to him were retained in service. Thus the management contravened the provisions of the Act and he be reinstated in service.

Respondent management filed written reply controverting the averments and denied that there was any relationship of employer and employee between the parties. That the workman was never engaged by the respondent corporation. It is pleaded that corporation has given contract to M/s. Ex-servicement Security Service,

Kurukshetra vide agreement dated April, 1989 Annexure M1 and it was the contractor who provided the security guards. That some of the workers filed a writ petition No. 7999 of 1999 before the Hon'ble High Court of Punjab and Haryana which was dismissed and the SLP preferred by them was also dismissed vide order dated 19.3.2002. That security guards were disengaged by the corporation to avoid any further litigation. However the security guards were not the employees of the corporation who used to make the payment to the contractor who was also responsible to deduct the EPF etc. That services of the workman were not terminated by the corporation.

Parties were given opportunities to lead their evidence.

In support of his case, workman appeared in the witness box and filed his affidavit reiterating the stand as taken in the claim petition.

On the other hand, the respondent management has examined Dr. Rajesh Gulia, who filed his affidavit reiterating the stand of the management along with the documents.

I have heard Sh. Jagtar Kureel, Counsel for the workman and Sh. N.K. Zakhmi, counsel for the management.

It was vehemently argued by the learned counsel for the workman that workman is an employee of the corporation who was engaged since 1986 and his services were terminated by the District Manager vide order dated 9.10.2000 without complying with the provisions of the Act and therefore the termination of his service is illegal. He has further submitted that the corporation who allege that the workman was an employee of the contractor did not examine the contractor, as much as, the corporation did not produce the record despite moving an application and therefore adverse inference be also taken against it to hold that workman is an employee of the corporation.

I have considered the contention of the learned counsel.

The corporation is a statutory body and has its rules and regulations for appointing the persons in the corporation. Nothing has come on the file that any procedure was followed while giving the alleged appointment to the workman. Again no evidence whatsoever has been led by the workman to prove that it was the corporation who used to pay him salary. It was argued that the corporation used to pay the salary to the workman but on simple assertions, it cannot be held that it was the corporation who was paying the salary to the workman without maintaining any record. Since it is not proved that any procedure was followed while appointing the workman and he was paid any pay at any point of time by the corporation it cannot be said that he was an employee of the corporation as much as the respondent corporation has taken a definite stand that it has given contract for security guards. Since the corporation denies the

relationship with the workman and therefore the non-production of the record is of no consequence. It was for the workman to prove by leading cogent and convincing evidence on the file that he was ever employed by the corporation and there is only his bare statement in this respect which cannot be acted upon in the absence of any corroborative evidence. Here the learned counsel argued that it was the corporation who used to mark duty to the workman. Even if it is taken that duty was marked to the workman by officer of the corporation, the same does not make him an employee of the corporation as the security guards were given by the contractor and work was to be taken for them by deploying them at different places and simply marking of the duty by the corporation does not make the workman as its employee. The learned counsel also carried me through the letter dated 9.10.2000 Mark A to submit that the workman was disengaged by the corporation which is sufficient to hold that he was an employee of the corporation. This letter was addressed to Assistant Manager, Karnal by the District Officer, Karnal intimating disengagement of the security guards and it was not addressed directly to the workman. It can only be said that intimation was given to the concerned office regarding the disengagement of the security guards and otherwise services of the security guards were not terminated by the said letter. Otherwise also the said letter does not prove by any stretch of imagination that workman was ever employed by the corporation in view of the reasons discussed above. Non-examination of the contractor by the FCI also does not advance the case of the workman and it was for him to prove that he was an employee of the corporation which he has failed to prove.

Thus, it is held that workman has failed to prove that there was any relationship of employee and employer between the parties and being so, it cannot be said that services were terminated by the respondent management.

In result, the reference is answered holding that workman is not entitled to any relief. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 19 जून, 2015

का.आ. 1284.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफसीआई के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 1123/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 19/06/2015 को प्राप्त हुआ था।

[सं० एल-22012/302/1999-आईआर (सीएम-II)]

मो० जाहद शरीफ, अनुभाग अधिकारी

New Delhi, the 19th June, 2015

S.O. 1284.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1123/2005) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Chandigarh as show in the Annexure, in the industrial dispute between the management of Food Corporation of India, and their workmen, received by the Central Government on 19/06/2015.

[No. L-22012/302/1999-IR (CM-II)]
Md. ZAHID SHARIF, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri Kewal Krishan, Presiding Officer.

Case No. I. D. No. 1123/2005

Registered on 22.9.2005

Sh. Sultan Singh and Others, S/o Sh. Man Singh, Village Dadupur Rodan, P.O.: Sirsi, Karnal

...Petitioner

Versus

The District Manager, Food Corporation of India, Distt. Karnal, Haryana

...Respondents

APPEARANCES

For the workman : Sh. Jagtar Kureel, Adv.

For the Management : Sh. N.K. Zakhmi, Adv.

AWARD

Passed on 29.5.2015

Central Government vide Notification No. L-22012/302/99-IR (CM-II) Dated 24.1.2000 by exercising its powers under Section 10 Sub-section (1) Clause (d) and sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

"Whether the action of the management of FCI is not regularizing the services of Sh. Sultan Singh and 23 others engaged under Contract Labour (R & A) Act, 1970 in FCI after notification No. 779 (E) dated 9.12.1976 came into operation is legal and justified? If not, to what relief is the workman entitled?"

In response to the notice, the workmen submitted statement of claim pleading that workmen were working at FCI Depots at Karnal, Jundla, Taraori and Nissing and they have been removed from service by the Corporation. As per Notification dated 29.11.1985 under Section 10 of the Contract Labour Act; the employment of contract labour is

prohibited which has also been prohibited by Notification No. 779(E) dated 9.12.1976. That the engagement of the contractor was an eye wash to deprive the workers of their rights. They have worked with dedication and are entitled to regularization of their services and all the benefits.

Respondent Corporation filed written reply controverting the averments and pleaded that workmen were never engaged by the corporation as its employee. The corporation has given the contract to M/s. Ex-servicemen Security Services who used to make necessary contribution of EPF on behalf of the workmen. That there was no relationship of employer and employee between the parties.

Parties were given opportunities to lead their evidence.

In support of their case Sh. Jai Pal, workman and Sh. Sultan Singh, workman appeared in the witness box and filed their respective affidavits supporting the stand taken in the statement of claim.

On the other hand the management has examined Sh. Girish Kumar, who filed his affidavit supporting the stand of the respondent corporation.

I have heard Sh. Jagtar Kureel for the workman and Sh. N.K. Zakhmi, counsel for the management.

It was argued by the learned counsel for the workmen that Sultan Singh and Others continuously worked with the respondent management for a sufficient long time and as such are entitled to regularization of their services and the contract given by the respondent management to the contract of employing the security guards is an eye wash.

It may be added that there is nothing on the file that the workmen were ever employed by the respondent corporation. No appointment letter has been placed on the file as much as nothing has come on the record that they were ever paid wages by it. In the absence of payment of wages by the corporation to the workmen, it cannot be said that they were ever employed by it. When it is so, they cannot claim regularization of their services.

Again the Hon'ble Apex Court in Secretary, State of Karnataka Vs. Uma Devi reported in A.I.R. 2006 S.C. 1806 has observed that the employees who are not appointed by observing the regular procedure and rules are not entitled to regularization of their services. There is nothing on the file that the workmen were ever employed by the respondent corporation by following any rules and as such they are not entitled to regularization of their services.

In result, the reference is accordingly answered against the workmen and they are not entitled to any relief. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 19 जून, 2015

का.आ. 1285.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफसीआई के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 1301/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/6/2015 को प्राप्त हुआ था

[सं एल-22012/341/2006-आईआर (सीएम-II)]

मो. जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 19th June, 2015

S.O. 1285.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1301/2007) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure, in the industrial dispute between the management of Food Corporation of India, and their workmen, received by the Central Government on 19/06/2015.

[No. L-22012/341/2006-IR(CM-II)]

Md. ZAHID SHARIF, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri Kewal Krishan, Presiding Officer

Case No. I.D. No.1301/2007

Registered on 4.5.2007

Sh. Jai Pal S/o Sh. Man Singh, resident of Village Dadupur Rodan, P.O. Sirsi, Karnal.

...Petitioner

Versus

The District Manager, Food Corporation of India, Distt. Karnal, Haryana

...Respondents

APPEARANCES:

For the workmen : Sh. Jagtar Kureel, Adv.

For the Management : Sh. N.K. Zakhmi, Adv.

AWARD

Passed on 29.5.2015

Central Government vide Notification No. L-22012/341/2006-IR(CM-II) Dated 15.3.2007, by exercising its powers under Section 10 sub-section (1) Clause (d) and sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter

referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

"Whether the action of the management of FCI in terminating the services of Sh. Jai Pal, Security Guard s/o Sh. Man Singh *w.e.f.* 9.10.2000 is legal and justified? If not, to what relief is the workman entitled?"

In response to the notice, the workmen appeared and submitted statement of claim pleading that he was working as a Security Guard *w.e.f.* 1.5.1992 with the respondent management who terminated his services vide letter dated 9.10.2000. It is pleaded that as case was filed for regularizing his services, he was terminated. That he has completed 240 days of service in a calendar year and he was not paid retrenchment compensation. That the persons junior to him were retained in service. Thus the management contravened the provisions of the Act and he be reinstated in service.

Respondent management filed written reply controverting the averments and denied that there was any relationship of employer and employee between the parties. That the workman was never engaged by the respondent corporation. It is pleaded that corporation has given contract to M/s. Ex-servicemen Security Service, Kurukshetra vide agreement dated April, 1989 Annexure M1 and it was the contractor who provided the security guards. The some of the workers filed a writ petition No. 7999 of 1999 before the Hon'ble High Court of Punjab and Haryana which was dismissed and the SLP preferred by them was also dismissed vide order dated 19.3.2002. That Security guards were disengaged by the corporation to avoid and further litigation. However the security guards were not the employees of the corporation who used to make the payment to the contractor who was also responsible to deduct the EPF etc. That services of the workman were not terminated by the corporation.

Parties were given opportunities to lead their evidence.

In support of his case, workman appeared in the witness box and filed his affidavit reiterating the stand as taken in the claim petition.

On the other hand, the respondent management has examined Dr. Rajesh Gulia, who filed his affidavit reiterating the stand of the management along with the documents.

I have heard Sh. Jagtar Kureel, counsel for the workman and Sh.N.K. Zakhmi, counsel for the management.

It was vehemently argued by the learned counsel for the workman that workman is an employee of the corporation who engaged him *w.e.f.* 1.5.1992 and his services were terminated by the District Manager vide order dated 9.10.2000 without complying with the provisions of the Act and therefore the termination of his service is illegal. He has further submitted that the corporation who allege that the workman was an employee of the contractor did

not examine the contractor as much as the corporation did not produce the record despite moving and application; and therefore, adverse inference be also taken against it to hold that workman is an employee of the corporation.

I have considered the contention of the learned counsel.

The corporation is a statutory body and has its rules and regulations for appointing the persons in the corporation. Nothing has come on the file that any procedure was followed while giving the alleged appointment to the workman. Again no evidence whatsoever has been leg by the the workman to prove that it was the corporation who used to pay him salary. It was argued that the corporation used to pay him salary to the workmen but no simple assertions, it cannot be held that it was the corporation who was paying the salary to the workman without maintaining any record. Since it is not proved that any procedure was followed while appointing the workman and he was paid any pay at any point of time by the corporation, it cannot be said that he was an employee of the corporation as much as the respondent corporation has taken a definite stand that it has given contract for Security guards. Since the corporation denies the relationship with the workman, and therefore, the non-production of the record is of no consequence. it was for the workman to prove by leading cogent and convincing evidence on the file that the was ever employed by the corporation and there is only his bare statement in this respect which cannot be acted upon in the absence of any corroborative evidence. Here the learned counsel argued that it was the corparation who used to mark duty to the workman. Even if it is taken that duty was marked to the workman by officer of the corporation, the same do not make him an employee of the corporation as the security guards were given by the contractor and work was to be taken from them by deployin them at different places and simply marking of the duty by the corporation do not make the workman as its employee. The leaned counsel also carried me through the letter dated 9.10.2000 Mark A to submit that the workman was disengaged by the corporation which is sufficient to hold that he was an employee of the corporation. This letter was addressed to Assistant Manager, Karnal by the District Officer, Karnal intimating disengagement of the security guards and it was not addressed directly to the workman. It can only be said that intimation was given to the concerned office regarding the disengagement of the security guards and otherwise services of the security guards were not terminated vide the said letter. Otherwise also the said letter do not prove by any stretch of imagination that workman was ever demployed by the corporation in view of the reasons discussed above. Non-examination of the contractor by the FCI also do not advance the case of the workman and it was for hime to prove that he was an employee of the corporation which he has failed to prove.

Thus, it is held that workman has failed to prove that there was any relationship of employee and employer between the parties and being so, it cannot be said that services were terminated by the respondent management.

In result, the reference is answered holding that workman is not entitled to any relief. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 19 जून, 2015

का.आ. 1286.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफ सीआई के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं 1, धनबाद के पंचाट (संदर्भ संख्या 113/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/06/2015 को प्राप्त हुआ था।

[सं एल-22012/102/1996-आईआर (सी-II)]

मो. जाह्द शरीफ, अनुभाग अधिकारी

New Delhi, the 19th June, 2015

S.O. 1286.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 113/97) of the Cent.Govt. Indus.Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of FCI and their workmen, received by the Central Government on 19/06/2015.

[No.L-22012/102/1996-IR (C-II)]

Md. ZAHID SHARIF, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 1), DHANBAD.

IN THE MATTER OF A REFERENCE U/S 10(1)(D) (2A)
OF I.D. ACT, 1947

Ref. No. 113 of 1997

Employers in relation to the management of Food
Corporation of India, Patna.

AND

Their workmen.

Present : Sri Ranjan Kumar Saran, Presiding Officer

Appearances:

For the Employers	:	None
For the workman	:	Sri V. Kumar, Rep.
State	:	Bihar
Industry	:	Food
Dated:		6.4.2015

AWARD

By Order No. L-22012/102/1996-IR-(C-II), dated 20.5.1997, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of F.C.I, Patna in not regularizing the service of S/Sh Nagendra and Hari Kishore Roy casual employees, is legal and justified? If not, to what relief are the concerned workman entitled?"

2. The case is received from the Ministry of Labour on 28.05.1997. After receipt of reference, both parties are noticed, the Sponsoring Union files their written statement on 24.07.1997. And the management files their written statement-cum-rejoinder on 15.02.2000. Therefore rejoinder and document filed by the parties. Two witness examined by the management. Documents of workman marked as Ext. W-1 to W-6.

3. The Short point to be decided in the case is whether the workmen, who are working as casual employee, to be regularized as regular workmen, in the post, they are working now.

4. The workmen representative submitted that as per circular of management marked as Ext. W-2 the casual employees who worked for 90 days prior to cut off date 02.05.86 they are to be regularized in their respective post.

5. Since both the workmen were not regularized, they raised dispute before ALC Patna. Where the management filed documents and admitted that the workman worked for more than 90 days prior 02.05.1986. Therefore there is no reason, to regularize them.

6. Moreover the management did not appear in the case during argument. Both the witness of the management submits that I have no personal knowledge regarding the case, and he also admitted that Ext. W-1 to W-4 are F.C.I documents submits by MW-2 .

7. MW-1 the management witness accepts that the workmen were working from 1984, and I have been seeing them. He also submits that I was simply watchman, I can not say the contents of the affidavit filed from the documents of the management it appears that the workman worked continuously under the management, for more than 240 days.

8. Considering the documents and evidence , as well as facts of the cast, I hold that the action of the management of F.C.I, Patna in not regularizing the service of S/Sh Nagendra and Hari Kishore Roy casual employees, is not legal and justified. Hence It is ordered to regularize the workmen against the regular post from the date of award, misusing the amount they have received from the management in the meantime.

This is my award.

R.K. SARAN, Presiding Officer

नई दिल्ली, 22 जून, 2015

का.आ. 1287.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 2, चण्डीगढ़ के पंचाट (संदर्भ सं. 1307/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22/06/2015 को प्राप्त हुआ था।

[सं० एल-12012/86/2006-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 22nd June, 2015

S.O. 1287.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 1307/2007) of the Cent.Govt. Indus.Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure, in the industrial dispute between the management of Canara Bank and their workmen, received by the Central Government on 22/06/2015.

[No. L-12012/86/2006-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

**IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH**

Present: Sri Kewal Krishan, Presiding Officer

Case No. I.D. No.1307/2007

Registered on 24.5.2007

Sh. Rajesh Kumar S/o Sh. Hari Singh, R/o New Vinod Nagar, Near Hindu Public School, Mill Gate Road, Hisar, district Hisar.

...Petitioner

Versus

The Chief Manager, Canara Bank, Red Square Market,
Hisar, District Hisar.

...Respondents

APPEARANCES:

For the workman Sh. Tara Chand Dhalwal, Adv.

For the Management Sh. N.K. Zakhmi, Adv.

AWARD

Passed on 27.4.15

Central Government *vide* Notification No. L-12012/86/2006-IR(B-II) Dated 12.2.2007, by exercising its powers under Section 10 Sub Section (1) Clause (d) and Sub Section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the management of Canara Bank in terminating the services of Sh. Rajesh Kumar S/o Sh. Hari Singh, Peon-cum-Coolie *w.e.f.* 19.10.2005 is just and legal? If not, what relief the workman is entitled to?"

In response to the notice, the workman appeared and submitted statement of claim pleading that he was employed as Peon-cum-Coolie on daily wages with the respondent management on the opening of Extension Counter at PGSD, Senior Secondary School, Hisar on 29.9.2003. That Chief Manager had written a letter on 21.10.2004 asking for appointing the workman to the DGM. He was not paid wages *w.e.f.* 1.4.2005 and was given an assurance for payment of the wages and regularization of his services. He served a legal notice dated 14.10.2005 on the management and his services were orally terminated on 19.10.2005. That no notice was served on him or any retrenchment compensation was paid and as such the termination is illegal.

Respondent management filed written reply controverting the averments and at one place pleaded that workman was never appointed by the management nor he worked with it; and again it is pleaded that the workman worked intermittently during the period 29.9.2003 to 18.10.2005. That his services were utilized for miscellaneous work as per contingency need on daily wages of Rs. 50/- and he was paid for the day he worked. Other averments were controverted pleading that the Chief Manager was not competent to engage the workman and disciplinary proceedings were taken against him. Since the workman was a daily wager, he was not entitled to any retrenchment compensation or notice.

Parties were given opportunities to lead their evidence.

In support of its case, the workman Rajesh Kumar appeared in the witness box and examined Madan Lal, Mukesh and Vakinder Singh.

Rajesh Kumar, workman filed his affidavit reiterating the stand taken by him in the statement of claim.

Madan Lal has deposed in his affidavit that workman worked with the respondent bank from 29.9.2003 to 10/2005 at Extension Counter at Hisar. To that effect deposition has been made by Vakinder Singh and Mukesh.

On the other hand the bank has examined Sh. Anant Jalhona, who filed his affidavit reiterating the stand taken by the respondent bank.

His cross-examination was deferred and he brought the original record and deposed that workman worked intermittently from 1.4.2005 to 18.10.2005 for which he did not take the payment.

I have heard Sh. Tara Chand Dhalwal, Counsel for the workman and Sh. N.K. Zakhmi, counsel for the management.

It was argued by the learned counsel that the workman continuously worked with the respondent management from 29.9.2003 to 19.10.2005 and his services were illegally terminated without paying him any compensation and he be reinstated in service with back wages.

I have considered the contention of the learned counsel.

As per Section 25F of the Act, a workman who has been in continuous service for not less than one year cannot be retrenched until he has been given one month's notice in writing or paid wages in lieu of such notice.

Section 25B defines 'continuous service' and *inter alia* provides that a workman shall be deemed to be continuous service for one year if he during a period of 12 calendar months preceding the date with reference to which calculation is to be made has actually worked under the employer for not less than 240 days.

According to the workman, his services were orally terminated on 19.10.2005 and therefore the period of 240 days is to be calculated preceding 19.10.2005 i.e. whether he actually worked for 240 days between 18.10.2004 to 19.10.2005. Certain vouchers Exhibit A1 to A10 has been placed on the record which pertains to the year 2003 and 2004 and the last voucher is of 1.10.2004. It was incumbent upon the workman to prove that he actually worked for 240 days prior to the termination of his service on 15.10.2005. A bare statement workman and the statement of the witnesses namely Madan Lal, Vekinder and Mukesh cannot be taken on its face value to hold the workman actually worked for 240 days. The best evidence available was the record of management. Sh. Anant Jalhona, a witness of management was examined on 1.4.2013 and he has categorically stated that workman worked intermittently and his cross-examination was deferred and on the next date of hearing *i.e.* 6.1.2014, he brought the original record including the attendance register and nothing has been pointed out that the workman continuously worked from 10/2004 to 10.2005 and the witness has again specifically

stated that the workman worked intermittently from 1.4.2005 to 18.10.2005. In view of the record broguth by the witness, it cannot be said that workman completed 240 days of service during a period of 12 calendar months preceding the date of alleged termination *i.e.* 19.10.2005. Being so, the compliance of Section 25F of the Act was not required and his case do not fall within the definition of 'retrenchment'.

There is no denial of the fact that respondent bank is a statutory body having its rules and regulations and nothing has come on the file that any procedure was followed while appointing the workman as Peon-cum-Coolie on daily wages. Therefore the workman can not claim his reinstatement on this ground also.

There is a letter dated 15.1.2004 written by the Chief Manager, mentioning therein that the workman was engaged as coolie and asked for permanent alternative but this letter do not advance the case of the workman as it is admitted that workman worked with the bank for some time on daily wage basis and this letter relate to the year January, 2004 and it cannot be said that he worked with the back in the year 2005 continuously.

Being so, the reference is answered that the workman is not entitled to claim any relief against the respondent management. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 22 जून, 2015

का.आ. 1288.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नैशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं० 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 1258/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 22/06/2015 को प्राप्त हुआ था।

[सं० एल-12012/83/2005-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 22nd June, 2015

S.O. 1288.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1258/2006) of the Central Government Industrial Tribunal-cum-Labour Court II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the management in relation to the management of the Punjab National Bank and their workmen, received by the Central Government on 22/06/2015.

[No.L-12012/83/2005-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present : Sri Kewal Krishan, Presiding Officer

Case I.D. No. 1258/2006

Registered on 14.3.2006

Sh. Satish Kumar S/o Sh. Shiv Lal workman, R/o Mohalla Nankpura, Near Darjion Mohalla, Rampura Phul.

...Petitioner

Versus

The Management, Punjab National Bank, Zonal Office, Feroze Gandhi Market, Ludhiana (through its Zonal Manager).

...Respondents

APPEARANCES

For the workman Sh. T.C. Sharma, Adv.

For the Management Sh. N.K. Zakhmi, Adv.

AWARD

Passed on 11.5.2015

Central Government vide Notification No. L-12012/83/2005-IR(B-II) Dated 24.2.2006, by exercising its powers under Section 10 Sub Section (1) Clause (d) and Sub Section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the management of Punjab National Bank, Ludhiana in imposing the punishment of dismissal on Sh. Satish Kumar, Ex-Head Cashier, From service *w.e.f.* 22.1.2004 is legal and justified? If not to what relief the concerned workman is entitled?"

In response to the notice, the workman appeared and submitted statement of claim to which written reply was filed.

The facts emerging are that the workman was posted as Head Cashier (C) at Branch Sailbrah of the respondent management in the year 2002-03, and it was found that he has received cash from the customers and made entries in their passbooks but did not deposit the same with the bank. He was served with the charge-sheet dated 19.7.2003 which reads as follows:—

CHARGE-SHEET

On 18.3.2003, at around 9.50 a.m., one customer named Sh. Prem Kumar S/o Sh. Faqir Chand, SF A/c No. 3689, visited the branch for withdrawal of amount from his

aforesaid SF A/c. He presented his passbook to Sh. S. K Garg, Officer, who found that the entries in the passbook did not match with those in the branch computer. On verification, it was observed that there was a credit entry of Rs. 45000/- dated 7.12.2002 in the passbook made in your own handwriting but no such entry was available in bank's records/computer. On enquiring the matter from you, you confessed having received cash from Sh. Prem Kumar, SF A/c No. 3689 on 7.12.2002 and made the entry in the passbook, without depositing the amount with the bank. On further enquiry, you confessed having made similar misappropriation in other accounts and gave a list consisting of 32 entries involving Rs. 520240/- wherein you pocketed money deposited by various customers but made entries in the passbooks as per detail given below:—

A/c No.	Name S/Sh.	Date of entry made in passbook	Amount (Rs.)	Date of deposit in the Bank A/C
1	2	3	4	5
S/F-3086	Yadvinder Singh	31.12.2002	9500	21.3.2003
S/F-755	Jarnail Singh	22.1.2003	12000	21.3.2003
S/F-2939	Manjit Singh	21.2.2003	10000	21.3.2003
S/F-4094	Ramandeep Kaur	25.2.2003	2000	21.3.2003
S/F-2666	Jarnail Singh	9.8.2002	14000	21.3.2003
S/F-2666	Jarnail Singh	24.1.2003	6000	21.3.2003
S/F-2447	Roop Singh	15.1.2003	10000	21.3.2003
S/F-2050	Hardev Singh	21.2.2003	2600	21.3.2003
S/F-2050	Hardev Singh	10.3.2003	2500	1.03.2003
S/F-619	Krishan	14.3.2003	5000	21.3.2003
S/F-3073	Manjit Kaur	18.1.2003	5000	21.3.2003
S/F-751	Ajit Kaur	1.2.2003	11800	21.3.2003
S/F-2784	Mohinder Singh	17.2.2003	2500	21.3.2003
S/F-649	Darshan Singh	12.3.2003	12000	21.3.2003
S/F-3957	Sukhdeep Kaur	20.11.2002	11000	21.3.2003
S/F-2603	Darshan Singh	28.6.2002	26000	21.3.2003
S/F-2107	Sukhdev Singh	6.11.2002	45000	21.3.2003
S/F-2618	Baljit Kaur	29.11.2002	8340	21.3.2003
S/F-4142	Jeet Singh	15.11.2002	30000	21.3.2003
S/F-2569	Jaswinder Singh	16.11.2002	28000	21.3.2003
		21.1.2003	50000	Rs. 78000/-
S/F-3665	Sukhdev Singh	7.1.2003	54000	7.1.2003
				Rs. 34000/-
				21.3.2003
				Rs. 20000/-

1	2	3	4	5
S/F-870	Ajmer Singh	27.1.2003	6000	21.3.2003
S/F-4186	Gurdev Singh	20.12.2002	10000	21.3.2003
S/-F-2196	Paramjit Kaur	20.8.2002	22000	20.8.2002
				Rs. 2000/-
				21.3.2003
				Rs. 20000/-
S/F-4030	Gurmit Kaur	27.9.2002	15000	21.3.2003
S/F-4060	Sukhminder Singh	10.3.2003	35000	10.3.2003
				Rs. 20500/-
				21.3.2003
				Rs. 14500/-
S/F-1806	Ajaib Singh	26.8.2002	40000	21.3.2003
		30.10.2002	30000	Rs. 70000/-
S/F-3689	Prem Kumar	7.12.2002	45000	21.3.2003
		Prev. Diff.	2000	Rs. 47000/-
S/F-2399	Jaspal Singh	29.1.2003	3000	21.3.2003
RD-75	Sinder Singh	1.7.2002	10000	21.3.2003
RD-118	Hardev Singh	10.3.2003	1500	21.3.2003

The amount pocketed as above was deposited by you with the bank for credit to respective accounts on 21.3.2003 under your own signatures. Thus, you pocketed Rs. 5,20,240/- for the period mentioned above.

The workman submitted reply and after considering the same as not satisfactory, an Inquiry Office was appointed. Due to administrative reasons the Inquiry officer was changed and the inquiry was entrusted to another officer before whom the workman admitted the charges and confessed that he has embezzled the amount. However, evidence was also led before the Inquiry Officer who after considering the confession of the workman and the evidence led before him submitted a report dated 31.10.2003 holding that charges are proved against the workman.

On the basis of the inquiry report, a show cause notice was issued to him along with the Inquiry report to which he submitted reply and the disciplinary authority dismissed him from service *w.e.f.* 22.1.2004. The appeal preferred by him was also dismissed.

Now, according to the workman, the inquiry was not conducted as per procedure and the Inquiry Officer was changed during the proceedings which is unwarranted by law. That the Inquiry Officer did not base his report on any evidence and no witness was examined before him. That

the inquiry report is biased and is liable to be set aside and accordingly the punishment order is not also sustainable.

On the other hand the management has taken the stand in his written statement that the inquiry was held as per procedure. Though the workman admitted the charges, but still the evidence was led before the Inquiry Officer who based his report not only on the confession of the workman but also on the basis of the evidence produced. The workman was given due opportunity to cross-examine the witnesses and lead his defence evidence. That there is no defect in the Inquiry proceedings and the punishment order based on the inquiry report is legal and valid.

After hearing the counsel for the parties, the inquiry was held to be fair and proper vide order dated 28.5.2014.

I have heard Sh. Tek Chand Sharma, Counsel for the workman and Sh. N.K. Zakhmi, counsel for the management.

It was argued by the learned counsel for the workman that workman has deposited the amounts in the bank and as such no loss has been caused either to the bank or to the account-holders and therefore the penalty of dismissal from service is harsh and a lenient view be taken.

Suffice it to say that banks deals with the public money and its officers are required to discharge their functions with utmost diligence and honesty. The workman in the present case embezzled the amount of not only one customer but of several customers from the year 2002 to 2003. If he deposited the amount on detection of the embezzlement, the same cannot exonerate him of the misconduct committed by him. since he is guilty of misappropriating the amount of account-holders who deposit the amount with him in good faith, no other view can be taken except the one taken by the punishing authority and the punishment order do not call for any interference by using the powers under Section 11 of the Act.

In result, it is held that the action of the management in imposing the penalty of punishment of dismissal on the workman is legal and justified and he is not entitled to any relief. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 22 जून, 2015

का.आ. 1289.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय नं० 2, चंडीगढ़ के पंचाट (संदर्भ सं. 776/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 22.06.2015 को प्राप्त हुआ था।

[सं० एल - 12012/55/2001-आई आर (बी-1)]
रवि कुमार, डेस्क अधिकारी

New Delhi, the 22nd June, 2015

S.O. 1289.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 776/2005) of the Cent. Govt. Indus. Tribunal - cum - Labour Court, Chandigarh as shown in the Annexure, in the industrial dispute between the management of Bank of India and their workmen, received by the Central Government on 22/06/2015.

[No. L-12012/55/2001 - IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH.

Present: Sri Kewal Krishan, Presiding Officer

Case No. I.D. No. 776/2005

Registered on 5.0.2005

Sh. Suresh Chand Kaushal son of Sh. Madan Lal, Ex-Clerk-cum-Typist, Bank of India, Sector 17C, Chandigarh, C/o Pt. Aditya Kumar Sharma, Labour Law Advisor, K.No. 3007, Sector 27-D, Chandigarh.

... Petitioner

Versus

1. The Zonal Manager, Bank of India, N.W. Zone, SCO 181-182, Sector 17C, Chandigarh.
2. Bank of India, Bank Square, Sector 17, Chandigarh, through its Chief Manager.

... Respondents

APPEARANCES

For the workman Sh. Aditya Kumar Sharma, Adv.

For the Management Sh. Ranjan Loha, Adv.

AWARD

Passed on 27.5.2015

Central Government vide Notification No. L-12012/55/2001-IR(B-II) Dated 10/16.07.2001, by exercising its powers under Section 10 Sub-Section (1) Clause (d) and Sub-Section (2-A) of the Industrial Disputes Act, 1947 (herein referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the management of Bank of India, Chandigarh in imposing the punishment of Compulsory Retirement on Sh. Suresh Chand Kaushal S/o Sh. Madan Lal, wef 15.01.2000 is just and legal? If not, what relief the workman is entitled to?"

In response to the notice, the workman appeared and submitted statement of claim to which written reply was filed.

The facts emerging are that workman was posted as Clerk-cum-Typist with the respondent Management. He was served with a charge-sheet dated 1.11.1995 for unauthorized absence; and again charge-sheeted on 14.11.1998 for unauthorized absence and separate penalty was imposed by passing separate order. He was again served the charge-sheet 14.10.1999 which is as follow:—

CHARGE-SHEET

During the course of your position and working at the Bank's Chandigarh Branch, you are alleged to have committed following acts of misconduct:—

"You have been remaining absent from your duties since 1.11.1998 without any intimation to the Competent Authority. The period of your aforesaid continuous absence has exceeded 30 days."

2. Prior to this, you remained absent from your duties from 24.8.1998 to 25.9.01998 without any intimation, for which disciplinary action for gross misconduct was initiated against you by issuing charge-sheet Ref No. CHD: CM: 961 dated 14.11.1998. After holding departmental enquiry in accordance with the prescribed procedure and after completing other requirements, you were awarded punishment of withdrawal of special allowance of Telex Operator vide Punishment Order Ref. No. CHD:CM:1243 dated 10.2.1999. However, it is observed that even after issuance of aforesaid punishment order, you did not report for duties and have been remaining unauthorizedly absent without any intimation.

He filed reply. Feeling not satisfied with the same, the disciplinary authority appointed an Inquiry Officer. The workman appeared before him on 22.11.1999 and admitted the charges in the presence of his defence representative and on an admission, the Inquiry Officer submitted the report of the same date holding that charges are proved against the workman.

On the basis of the Inquiry report, he was compulsorily retired on 15.1.2000.

Though the workman has challenged the proceedings in all the inquiries, but as per reference the court is to see whether the action of the management in imposing the penalty of compulsory retirement vide order dated 15.1.2000 is just and legal and therefore the other inquiries relating to the order 1995 and 1996 are of no consequence.

The only ground taken by the workman is that during the course of inquiry he was coerced to sign the documents on the pretext that workman would be given voluntary retirement but he was compulsorily retired and this act of the management is illegal and he is entitled to get voluntary retirement as per rules of the bank.

The management has denied the allegations and pleaded that the workman himself made the statement voluntarily and without any pressure and that too in the presence of his defence representative and the disciplinary authority

rightly acted on the report of the Inquiry Officer and passed the impugned order which is legal and valid.

I have heard Sh. Aditya Kumar Sharma, counsel for the workman and Sh. Rajan Lohan, counsel for the management and perused the inquiry proceedings.

As per the proceedings dated 22.11.1999, the workman appeared before the Inquiry Officer and admitted the charges and at that time his defence representative was also present. Workman has pleaded that his signatures were taken on the pretext of giving him voluntary retirement but there is nothing on the file that his signatures were obtained by any misrepresentation, and since the workman admits his signatures on the proceedings, it cannot be said in the absence of any evidence on the file that his signatures were obtained on a false pretext for giving him voluntary retirement. On the basis of his admission, the Inquiry Officer submitted and inquiry report which is of the same date i.e. 22.11.1999. The punishment is based on this inquiry report which in turn is based on the admission of the workman and therefore is cannot be said that the inquiry conducted in the present case is illegal.

The learned counsel for the workman also raised arguments regarding the quantum of penalty imposed and being so, there is no use of further adjourn the proceedings for hearing the parties regarding the penalty imposed. It was argued by the learned counsel that workman simply seeks voluntary retirement as compulsory retirement' is stigmatic and therefore the penalty imposed accordingly be amended. Suffice it to say that the workman was charge-sheeted for remaining absent in the year 1995 and again for his absence in the year 1998 and even after the awarding of punishment vide order dated 10.2.1999, he did not join the duty. Thus he remained willfully absent from his duty. In the circumstances, no other view can be taken for awarding the punishment then taken by the disciplinary authority and the punishment order do not call for any interference and the same is upheld.

In result the reference is answered accordingly holding that the workman is not entitled to any relief. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 22 जून, 2015

का.आ. 1290.—औद्योगिक विवाद अधिनियम, 1947 का 14 की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 1563/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.06.2015 को प्राप्त हुआ था।

[सं. एल-12011/75/2008-आई आर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 22nd June, 2015

S.O. 1290.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 1563/2008) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure, in the industrial dispute between the management of Central Bank of India and their workmen, received by the Central Government on 22/06/2015.

[No. L-12011/75/2008-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri Kewal Krishan, Presiding Officer

Case No. I.D. No. 1563/2008

Registered on 17.10.2008

Sh Sukhdev Singh, CTO, Central Bank of India, Moga Branch, Moga, Resident of House No. 610, Bassi Gobindgarh, Moga.

...Petitioner

Versus

Central Bank of India through its Zonal Manager, Zonal Office, SCO 58-59, Bank Square, Sector 17B, Chandigarh.

...Respondents

APPEARANCES:

For the Workman Sh. D.C. Mittal, Adv.

For the Management Sh. N.K. Zakhmi, Adv.

AWARD

Passed on 14.11.2014

Central Government *vide* Notification No. L-12011/75/2008-IR(B-II) Dated 22.9.2008, by exercising its powers under Section 10 Sub-section (1) Clause (d) and Sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial Dispute for adjudication to this Tribunal:—

"Whether the action of the management of Central Bank of India, in awarding punishment of Sh. Sukhdev Singh, C.T.O. as brought down to two stages in the scale of pay for three years with cumulative effect is in proportionate to the misconduct committed by the

workman and what relief he is entitled to and from which date?"

In response to the notice, the workman appeared and submitted statement of claim to which the management filed reply.

The facts emerging are that workman Sh. Sukhdev Singh was posted as C.T.O. with the management at Moga on 6.5.2002. On that day he was working on Cash Payment seat. He received two vouchers/pay-in-slips for Rs. 1500/- each of Sh. B.S. Sidhu, Branch Manager and Account No. 17208 of Sh. Gulab Singh. According to the management he entered the voucher of Sh. B.S. Sidhu in the cash receipt register whereas, of Gulab Singh was not entered. However he released both the pay-in-slips on that day in token of having received the cash. Both these vouchers were mentioned in the supplementary/cash book, a difference of Rs. 1500/- was found in the Cash Book. However the workman destroyed both the vouchers and pocketed this amount of Rs. 1500/- of Gulab Singh. When the Cash Book was tallied on 8.5.2002. He prepared fresh voucher of Sh. B.S. Sidhu and after making alterations in the cash book and scroll, he has shown the deposit of Rs. 1500/- and thus tampered the bank record.

The workman was charge-sheeted and regular inquiry was conducted. Finding him guilty, the competent authority, awarded him punishment by bringing him down to two stages in the scale of pay for three years with cumulative effect.

Now according to the workman the inquiry conducted was not fair and proper and it was Mr. B.S. Sidhu who did not deposit Rs. 1500/- on 6.5.2002. Though the mistake came to notice in the year 2002, but inquiry proceedings were started only in the year 2004 which itself shows that the action of the management is mala fide. That the appeal preferred by him was dismissed. That both the order by the punishing authority and Appellate Authority are illegal and he did not commit any misconduct.

On the other hand the management has pleaded that workman has embezzled Rs. 1500/- and even tampered with the bank record and these facts were proved by conducting a regular inquiry which was joined by the workman who was given an opportunity to cross-examine witnesses as well as to lead evidence. There was no defect in the conduct of the inquiry and the punishing authority has rightly awarded the punishment after going through the entire proceedings of the case which is legal and valid. Similarly the order passed by the Appellate Authority is also valid.

I have heard Sh. D.C. Mittal, counsel for the workman and Sh. N.K. Zakhmi, counsel for the management.

The following charge-sheet was served on the workman:—

CHARGE-SHEET

CHARGES—

1. While working on cash receipt/payment seat on dated 6.5.2002 Sh. Sukhdev Singh received two vouchers/pay in slips for Rs. 1500/- each, on (dully scrolled) in respect of VIP A/C Sh. B.S. Sidhu staff and other (which was unscrolled) in respect of HSS A/C 17208 of Sh. Gulab Singh. While the voucher/pay in slips in respect of VIP A/C Sh. B.S. Sidhu was entered in his cash receipt register where as he did not enter the other voucher/pay in slip for Rs. 1500/- related to HSS A/C 17208 of Sh. Gulab Singh in his cash receipt for the day. Both of the pay in slips were released by him on that day. *i.e.* 6.5.2002, as a token of having received the cash. Since both these vouchers were written in respective supplementary/cash book, a different for Rs.1500/- in cash book in its cash received column was crept in. Subsequently, both these vouchers were destroyed.

2. Sh. Sukhdev Singh on 8.5.2002, prepared a fresh pay in slip/voucher for Rs. 1500/- in dated 6.5.2002 of HSS A/C 17208 of Sh. Gulab Singh and sent it to scroll clerk for scroll which was scrolled at Sr. No.43 of cash scroll book for dated 8.5.2002. He also entered this voucher in his cash receipt for dated 8.5.2002 at Sr. No. 43. To treat this voucher for dated 6.5.2002, he got marked scroll No. 28 on this voucher/pay in slip scroll No. 28 for dated 6.5.2002 was of VIP A/C Sh. B.S. Sidhu Staff.

Thereafter entry made in cash scroll book and cash receipt register dated 6.5.2002 of VIP A/C Sh. B.S. Sidhu was altered to HSS A/C 17208 of Sh. Gulab Singh. Similarly entry made on 8.5.2002 in cash scroll book and cash receipt register of HSS A/C 17208 of Sh. Gulab Singh for Rs.1500/- was altered by him to VIP A/C Sh. B.S. Sidhu and he prepared and released a fresh voucher/pay in slip for Rs. 1500/- for VIP A/C Sh. B.S. Sidhu.

Thus Sh.Sukdev Singh CTO/Clerk Pocketed Rs. 1500/- 6.5.2002 which was deposited in the HSS A/C 17208 of Sh. Gulab Singh. When the matter came into light on 8.5.2002 while tallying the cash book he destroyed the bank's vouchers himself tempered the bank record and also arranged to temper the bank record to make the entry dated 6.5.2002 of VIP A/C Sh. B.S. Sidhu to HSS A/C 17208 of Gulab Singh. He also deposited Rs. 1500/- on 8.5.2002 in VIP A/C Sh. B.S. Sidhu Staff which was pocketed by him on 6.5.2002.

The above acts of Sh. Sukhdev Singh constitute Gross-Misconduct under para 5(j) of the Memorandum of Settlement dated 10.1.2002. Sh. K.L. Batra Sr. Manager B.O S.T. Ludhiana will hold departmental inquiry against him and the date, time and place of inquiry will be communicated

to him by the inquiry officer. Sh. Sukhdev Singh CTO/Clerk will be permitted to be defended by a representative of a Registered Trade Union of the bank employees of which he is a member. At inquiry he should keep ready with him, all oral and documentary evidence which he may tender or produce on his behalf and he will be allowed to cross-examine the witnesses who may be produced by the management during the inquiry proceedings.

He should inform the inquiry officer, the name of his representative and the name of the witnesses he intends to produce at the inquiry on his behalf. He is also informed that if he fails to present himself at the inquiry on the appointed date or on the adjourned date, the inquiry will be held *ex parte* and my findings of the inquiry officer will be conclusive and binding upon him.

It may be added here that the reference in the present case is whether the punishment awarded to the workman is proportionate to the misconduct and to what relief he is entitled.

A lengthy argument was advanced by Mr. N.K. Zakhmi, Learned Counsel for the management to show that the inquiry conducted in the case is fair and proper. But in view of the terms of the reference, this Tribunal is not to go into the said question and it is simply to see whether the punishment awarded to the workman is proportionate to alleged misconduct.

It was contended by learned counsel for the management that bank employees are required to take all steps to protect in interest of the bank and of its customers and since the workman in the present case pocketed Rs. 1500/-, the same amounts to gross misconduct and the punishing authority by taking a lenient view has rightly awarded the punishment in question.

I have considered the contention of the Learned Counsel.

There is hardly any dispute that a bank officer is required to exercise high standards of honesty and integrity and is required to take all possible steps to protect the interest of the bank and of the customers. Even if the case of the management is taken as such that the workman did not account Rs. 1500/- which he received on 6.5.2002, whether the same is sufficient to award the punishment in question. There is nothing on the file or came in the inquiry proceedings that the workman used the money for his own purpose at any stage or had any criminal intention to misappropriate the same by not mentioning the pay-in-slips in the required registers. It is the case of the bank itself that both the pay-in-slips of s. 1500/- each of Sh. B.S. Sidhu, Branch Manager and of Sh. Gulab Singh were released by the workman after stamping the same and these were even entered in the supplementary cash book and accordingly a discrepancy was found when the cash book was tallied on 8.5.2002. Had the workman has any criminal intention to misappropriate the sum of Rs. 1500/-, he would

not have released the pay-in-slips and even not bothered to enter the same in the supplementary cash book. It does not appeal to mind that a person working on the cash receipt register would go for embezzling a petty sum of Rs. 1500/- only. Though it was argued that he pocketed money on 6.5.2002 and deposited the same on 8.5.2002 and the same amounts to gross misconduct, but this argument is not sustainable for the obvious reason that such an officer working on the cash receipt register would not pocket such a small amount and that too after issuing the receipts having received the same and also knowing fully well that such an act is to be discovered at the end of the day. A cash book is to be tallied in routine daily. It seems that the voucher was not entered in the relevant registers inadvertently or due to some negligence; and no mala fide can be attributed to him if in order to correct the mistake, some cuttings or additions were made in the record. It cannot be said that he tempered with the bank record or destroyed any valuable document.

The punishment awarded is of bringing down the workman to two stages in the scale of pay for three years with cumulative effect; and the punishment, as stated above, is inflicted only on account of the mistake committed by the workman inadvertently or negligently; and therefore the same cannot be held to be proportionate to the alleged misconduct committed by the workman and is set aside and workman is entitled to all the arrears of pay which were withheld on account of the passing of the impugned order dated 18.5.2005. The reference is accordingly answered in favour of the workman. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer.

नई दिल्ली, 22 जून, 2015

का.आ. 1291.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चण्डीगढ़ के पंचाट (431/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.06.2015 को प्राप्त हुआ था।

[सं. एल-12012/230/97-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 22nd June, 2015

S.O. 1291.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 431/2015) of the Cent. Govt. Indus. Tribunal-cum-Labour Court-II, Chandigarh as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 22/06/2015.

[No. L-12012/230/97-IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri Kewal Krishan, Presiding Officer.

Case No. I.D. No. 431/2005

Registered on 19.8.2005

Sh. Moti Lal Mandiya, S/o Sampat Ram Mandiya, R/o Mulodi, Bhargarka (PO), Tehsil Narnaul, Mahendergarh.

...Petitioner

Versus

Punjab National Bank through its Zonal Manager, Sector 17, Chandigarh.

Punjab National Bank through its Regional Manager, Rohtak, Haryana.

...Respondents

APPEARANCES

For the Workman Sh. Arun Batra, Adv.

For the Management Ex parte.

AWARD

Passed on 4.11.2014.

Central Government *vide* Notification No. L-12012/230/97-IR(B-II) Dated 13.1.1998, by exercising its powers under Section 10 Sub-section (1) Clause (d) and Sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the management of Punjab National Bank in dismissing Sh. Moti Lal Mandiya, Clerk/Cashier from the service of the bank *vide* order dated 15.1.96 is legal and justified? If not, to what relief the said workman is entitled?"

The fact in brief are that the workman was working as Clerk/Cashier in New Bank of India at Kamania which was later on amalgamated with Punjab National Bank on 4.9.1993. While working in New Bank of India, it is alleged, he committed acts of gross-misconduct and he was served with a charge-sheet dated 28.7.1993. After considering his reply, regular inquiry was initiated. The Inquiry Officer conducted the inquiry and submitted a report finding the workman guilty. Acting on the report of the Inquiry Officer, a show cause notice was issued to the workman along with the copy of the report and consequently his services were terminated *vide* order dated 15.1.1996. The appeal preferred by the workman was also dismissed.

According to the workman, the charge-sheet served on him was not legal and valid as the documents relied upon was never supplied to him and he was not allowed to inspect the record. That the Inquiry Officer conducted the inquiry in a haste manner without supplying him list of witnesses and list of documents and that too without following the rules for conducting the inquiry. That he was not given an opportunity to defend himself. Since the inquiry is not legal and valid, the punishment passed on its basis is also illegal and he is entitled to be reinstated in service with all the benefits.

Respondent management filed written reply pleading that the inquiry conducted is legal and valid and the punishment order cannot be set aside.

Initially the bank appeared and submitted written statement but later on none appeared on behalf of the bank and registered notice was again sent on 30.9.2013 but again none appeared on behalf of bank and ex parte proceedings were taken against it *vide* order dated 19.11.2013.

In support of its case the workman appeared in the witness box and filed his affidavit.

I have heard Sh. Arun Batra, counsel for the workman.

The following charge-sheet dated 28.7.1993 was served on the workman:—

1. Sh. Amar Singh, on 1.10.90 deposited Rs. 2000/- in Bank for credit in his saving bank account 145. Sh. M.L. Mandiya received the money while performing his duty as Cashier. He did not deposit the amount in the bank. He kept the money with himself for his own use. He entered the transaction of Rs. 2000/- in the pass book in credit side and initiated it. On 5.10.90 Sh. M.L. Mandiya deposited the amount of Rs. 2000/- in the saving bank account of Sh. Amar Singh. He misappropriated the bank's money for 4 days, for his own benefit.

On 3.11.90, Sh. Amar Singh deposited Rs. 2000 for credit in his saving bank account 145. Sh. M.L. Mandiya received the amount while performing his duties as a Cashier. He entered the transaction of Rs. 2000/- in the pass book in credit side and initiated it. He did not deposit the amount in the bank and kept the money for his own use.

On 17.11.90, Sh. M.L. Mandiya deposited Rs. 2000/- in the bank for credit in saving bank account No. 145 of Sh. Amar Singh. He also signed the deposit slip. He misappropriated the bank's money for 14 days. Sh. M.L. Mandiya has acted in a manner prejudicial to the interest of bank, besides lowering the image of bank in the eyes of general public.

2. On 4.8.90, Sh. Chhaju Ram Nahria deposited Rs. 3000/- for credit in his S.B. account 289. Sh. M.L. Mandiya received the money while performing his duties as a Cashier. He entered the transaction of Rs. 3000 in the credit side of the

pass book and initiated it. He did not deposit the amount in the Bank and kept the money with himself for his own use. On 2.2.91 Sh. Chhaju Ram Nahria deposited Rs. 75.00 for credit in his S.B. Account 289. Sh. M.L. Mandiya received the amount while performing his duties as a Cashier. He entered the transaction of Rs. 75/- in the pass book on credit side and initiated it. Again on 2.2.91 he deposited Rs. 3075/- in the bank instead of Rs. 75/- received from Sh. Chhaju Ram Nahria. In this way Sh. M.L. Mandiya misappropriated the bank's money of Rs. 3000/- for about six months. Sh. Mandiya has acted in a manner prejudicial to the interest of bank, besides lowering the image of the bank in the eyes of general public.

3. On 1.8.89 Sh. Nathu Ram deposited Rs. 3800/- in his S.B. Account No. 477. Sh. Mandiya received the money while performing his duties as a Cashier. He entered the transaction of Rs. 3800/- in the pass book on the credit side and initiated it. Sh. Mandiya did not deposit the amount in the bank and kept the money with himself for his own use. On 3.8.89 Sh. M.L. Mandiya deposited Rs. 3800/- in the saving bank account of Sh. Nathu Ram. Sh. Mandiya has misappropriated the bank's money for two days for his own use. Sh. Mandiya has acted in a manner prejudicial to the interest of bank, besides lowering the image of bank in the eyes of general public.

4. On 9.4.90, Sh. Hari Ram Yadav, deposited Rs. 3100/- in his SB account 511. Sh. Mandiya received the money while performing his duties as a Cashier. He entered the transaction of Rs. 3100/- in the pass book in the credit side and initiated it. He did not deposit the amount in the bank and kept the money with himself for his own use. On 21.5.90 Sh. M.L. Mandiya deposited Rs. 3100/- in the bank for credit of saving bank account No. 511/- of Sh. Hari Singh Yadav by a deposit slip signed by him. He misappropriated the bank's money for about 42 days.

On 22/24.6.91 Sh. Hari Ram Yadav deposited Rs. 7000/- for credit in a saving bank account 511. Sh. Mandiya received the money while performing his duties as a Cashier. He entered the transaction of Rs. 7000/- in the pass book on the credit side and initiated it. He kept the money with himself for his own use and he did not deposit it in the bank. On 27.6.91, Sh. Mandiya deposited Rs. 7000/- for credit in the account of Sh. Hari Ram Singh Yadav SB Account No. 511. He misappropriated the bank's money for about 3 to 5 days for his own benefit.

On 30.4.92, Sh. Hari Ram Yadav deposited Rs. 4500/- for credit in his SB account No. 511, Sh. Mandiya received the money while performing his duties as a Cashier. He entered the transaction of Rs. 4500/- in the pass book on the credit side. He did not deposit the amount in the bank and kept the money with himself.

On 8.6.92, Sh. Hari Ram Yadav, again visited the bank and requested Sh. Mandiya a payment of Rs. 24000/- from

his SB account 511. Sh. Mandiya got his signature on the blank withdrawal form. He made the payment of Rs. 24000/- to him. He also entered the transaction of Rs. 24000/- in the pass book on the debit side. Sh. Mandiya filled the withdrawal form with Rs. 19500/- and entered the transaction in the bank books and ledger. In this way he misappropriated the bank's money of Rs. 4500/- for about one month six days for his own benefit. Sh. Mandiya acted in a manner prejudicial to the interest of bank besides lowering the image of bank in the eyes of general public.

5. On 26.2.90, Smt. Anarli Devi deposited Rs. 1800/- in her saving bank account 662. Sh. Mandiya received the money while working as a Cashier. He entered the transaction in the pass book in credit side. He kept the money with himself for his own use. On 3.3.90 Sh. Mandiya deposited Rs. 1800/- in the bank for credit in the SB account 662 of Smt. Anarli Devi. He misappropriated the bank's money for five days.

On 28.8.92, Smt. Anarli Devi deposited Rs. 500/- in her saving bank account 662. Sh. Mandiya received the money and kept with himself for his own use. He entered the transaction of Rs. 500/- in the pass book in the credit side and also initiated it. On 15.9.92 Sh. Mandiya deposited Rs. 500/- in the bank to the credit of SB account 662 of Smt. Anarli Devi. He signed the deposit slip also. He misappropriated the bank's money of Rs. 500/- for 15 days for his own benefit.

On 8.9.92 Smt. Anarli Devi, deposited Rs. 1500/- in her SB account 662. Sh. M.L. Mandiya received the money while performing his duties as a Cashier. He did not deposit the money with the bank and kept it with himself for his own use. He entered the transaction of Rs. 1500/- in the pass book of Smt. Anarli Devi on credit side and also initiated it. On 15.9.92 Sh. Mandiya deposited Rs. 1500/- in the bank for credit in SB account 662 of Smt. Anarli Devi. He misappropriated the bank's money for 7 days. These acts of Sh. Mandiya are in a manner prejudicial to the interest of bank and have lowered the image of the bank in the eyes of general public.

6. On 23.5.91, Smt. Santosh deposited Rs. 600/- in her SB account No. 711. Sh. Mandiya received the money while performing his duties as a Cashier. He entered the transaction in the pass book on the credit side and initiated it. He did not deposit Rs. 600/- in the bank and kept the money with himself for his own use. On 13.7.92, Sh. Mandiya deposited Rs. 600/- in the SB account 711 of Smt. Santosh. He also signed the deposit-slip. Sh. Mandiya misappropriated the bank's money for about one year, one month and twenty days. This act of Sh. M.L. Mandiya is in a manner prejudicial to the interest of the bank and has also lowered the image of bank in the eyes of general public.

7. On 2.7.91, Smt. Champa Devi deposited Rs. 2000/- in the bank for credit in her SB account 764. Sh. Mandiya received the money while performing his duties as a cashier

in the branch. He entered the transaction of Rs. 2000/- in the pass book on credit side and initiated it. He did not deposit the money in the bank and kept it with himself for his own use. On 6.7.91 he deposited Rs. 2000/- in the SB account of Smt. Champa Devi by signing the deposit slip. He misappropriated the bank's money for four days.

On 7.3.92, Smt. Champa Devi deposited Rs. 2200/- in her SB account 764. Sh. Mandiya received the money and entered the transaction in the pass book on the credit side and initiated it. He did not deposit the money in the bank and kept it with himself for his own use. He deposited Rs. 2200/- on 2.5.92 in the account of Smt. Champa Devi. He misappropriated with bank's money for about one month 25 days.

On 26.11.92, Smt. Champa Devi deposited Rs. 4000/- in her SB account 764. Sh. Mandiya received the money while performing his duties as a cashier in the branch. He entered the transaction in the pass book and also initiated it. He did not deposit the amount in the bank and kept the money with himself for his own use. Sh. Mandiya deposited Rs. 4000/- in the bank for credit in SB account no. 764 of Smt. Champa Devi. He misappropriated the bank's money for nine days. Sh. M.L. Mandiya has acted in a manner prejudicial to the interest of bank besides lowering the image of bank in the eyes of general public.

8. 3.1.92 Smt. Bhagwani w/o Nand Ram deposited Rs. 1000/- in her SB account No. 1009. Sh. Mandiya received the money while performing his duties as a cashier. He entered the transaction in the pass book on the credit side and initiated it. He did not deposit the money with the bank and kept with himself for his own use. On 15.5.92 Smt. Bhagwani visited the bank and requested for the payment of Rs. 500/- from her account. Sh. Mandiya paid Rs. 500/- from his own pocket to Smt. Bhagwani Devi and entered the transaction in the pass book on the debit side and initiated it. He also deposited Rs. 500/- on 15.5.92 in the bank for credit in SB account 1009. In this way he misappropriated Rs. 1000/- being the bank's money for about four months 12 days. By this act, Sh. Mandiya has acted in a manner prejudicial to the interest of bank besides lowering the image of the bank in the eyes of general public.

9. On 26.11.92, Sh. Sube Singh deposited Rs. 7300/- for credit in his SB account 1145. Sh. Mandiya received the money while performing his duties as a Cashier. He entered the transaction in the pass book in the credit side and initiated it. He did not deposit the amount in bank and kept the money with himself for his own use. On 30.11.92, Sh. Mandiya deposited Rs. 7300/- in the account of Sh. Sube Singh, SB No. 1145. He misappropriated the bank's money for 4 days. Sh. Mandiya has acted in a manner prejudicial to the bank's interest besides lowering the image of bank in the eyes of general public.

10. On 7.11.91, Sh. Ravinder Kumar deposited Rs. 3000/- in his SB account 426. Sh. Mandiya received the money

while performing his duties as a cashier. He entered the transaction in the pass book on the credit side and initiated it. He did not deposit the amount in the bank and kept the money with himself. On 13.1.92 Sh. Ravinder Kumar visited the bank and demanded a payment of Rs. 4500/- from his account. Sh. Mandiya got the blank withdrawal form signed from him and paid Rs. 4500/-. He entered the transaction of Rs. 4500/- in the pass book and initiated it. Later on the same date Sh. Mandiya filled the blank withdrawal form with Rs. 1500/- and debited the SB account 426. In this way, he misappropriated the bank's money of Rs. 3000/- for about two months six days. Sh. Mandiya has acted in a manner prejudicial to the interest of bank, besides lowering the image of bank in the eyes of general public.

11. On 29.11.92, Sh. Mandiya had himself disclosed to Sh. N.K. Sharma, Branch Manager regarding an amount of Rs. 600/-, he kept with himself. He informed that this money belonged to Smt. Murti Devi SB account No. 570, which she had deposited in the bank to the credit in her SB account. On being persuaded by Sh. N.K. Sharma, Branch Manager, Sh. Mandiya deposited Rs. 600/- in the bank for credit in SB account 577 of Smt. Murti Devi. The deposit slip was filled by him. Sh. M.L. Mandiya has misappropriated the bank's money. He acted in a manner prejudicial to the interest of bank, besides lowering the image of bank in the eyes of general public.

12. On 2.12.91, Sh. Vijay Pal, S/o Jagmal deposited Rs. 950/- in the bank for credit in his SB account No. 564. Sh. Mandiya received the money while performing his duties as a Cashier. He entered the transaction of Rs. 950/- in the pass book on the credit side and initiated it. Sh. Mandiya did not deposit the amount in bank and kept the money with himself for his own use. On 6.12.91, Sh. Vijay Pal visited the branch and requested for a payment of Rs. 500/- from his SB account 564. Sh. Mandiya got the withdrawal form of Rs. 500/- signed from Sh. Vijay Pal. He did not debit the SB account 564 and paid Rs. 500/- from his own pocket. He entered the transaction in the pass book on debit side and initiated it. On 13.4.92 Sh. Vijay Pal again visited the bank and requested for a payment of Rs. 500/- from his SB account No. 564. Sh. Mandiya got the blank withdrawal form signed from him and paid him Rs. 500/-. He entered the transaction of Rs. 500/- in the pass book on debit side and initiated it. Later on the same date, he filled the withdrawal form with Rs. 50/- and debited the SB account 564. In this way he misappropriated the bank's money of Rs. 500/- for four days and Rs. 450/- for about 4 months 12 days for his own use.

On 15.5.92, Sh. Vijay Pal deposited Rs. 500/- in the bank for credit in his SB account No. 564. Sh. Mandiya received the money while performing his duties as Cashier. He entered the transaction of Rs. 500/- in the pass book on credit side and initiated it. He did not deposit the amount in the bank and kept the money with himself for his own use. On 27.7.92 Sh. Vijay Pal deposited Rs. 500/- for credit in his

SB account 564. Sh. Mandiya received the amount while performing his duties as a cashier and entered the transaction of Rs. 500/- in the pass book on credit side and initiated it. He did not deposit the amount in the bank and kept the money with himself for his own use. On 30.11.92 Sh. Vijay Pal deposited Rs. 350/- in the bank for credit in his SB account No. 564. Sh. Mandiya received the money while performing his duties as a cashier. He entered the transaction of Rs. 350/- in the pass book on the credit side and initiated it. He did not deposit the amount in the bank and kept the money with himself for his own use. On 26.12.92 Sh. Mandiya deposited Rs. 1350/- in the bank for credit in SB account 564 of Sh. Vijay Pal by filling the deposit slip himself. In this way Sh. Mandiya has misappropriated the bank's money of Rs. Rs. 500/- for about 7 months 11 days other Rs. 500/- for about five months and Rs. 350/- for about 26 days. Sh. Mandiya has acted in a manner prejudicial to the interest of bank, besides lowering the image of bank in the eyes of general public.

13. On 9.8.91, Smt. Santosh Devi deposited Rs. 2200/- in the bank for credit in the SB account No. 838. Sh. Mandiya received the money while performing his duties as a cashier. He entered the transaction in the pass book on credit side and initiated it. He did not deposit the money with the bank and kept it with himself for his own use. On 28.11.91 Smt. Santosh Devi visited the branch for a payment of Rs. 5000/- from her SB account No. 838. Sh. Mandiya got the blank withdrawal signed from Smt. Santosh Devi. He paid Rs. 5000/- to her and entered the transaction in her pass book on debit side and initiated it. On the same date he filled the withdrawal form with Rs. 2800/- and debited her SB account No. 838. In this way he misappropriated the bank's money of Rs. 2200/- for about three months 20 days for his own use.

On 9.1.92 Smt. Santosh Devi deposited Rs. 2000/- in the bank for credit in the SB account No. 838. Sh. M.L. Mandiya received the cash while performing his duties as a cashier; he entered the transaction of Rs. 2000/- in the pass book on the credit side and initiated it. He did not deposit the amount in the bank and kept it with himself for his own use. On 17-2-1992, Smt. Santosh Devi visited the bank and requested for a payment of Rs. 2000 from her SB account No. 838. Sh. M.L. Mandiya got the withdrawal form signed from her and paid her Rs. 2000/-. He also entered the Transaction of Rs. 2000/- in the pass book on the debit side and initiated it. Sh. M.L. Mandiya did not debit her SB account No. 838 and paid the amount from his own pocket. In this way, Sh. M.L. Mandiya misappropriated the bank's money for about one month eight day for his own use. He acted in a manner prejudicial to the interest of bank, besides lowering the image of bank in the eyes of general public.

14. On 7-12-92, Smt. Krishana Devi deposited Rs. 350/- for credit in her SB account No. 1025. Sh. M.L. Mandiya received the money while performing his duties as a

cashier. He entered the transaction of Rs. 350/- in pass book on the credit side and initialed it. He did not deposit the money with the bank and kept it himself for his own use. He had defrauded the bank with by Rs. 350/- he has act in a manner prejudicial to the interest of bank besides lowering the image of bank the eyes of general public.

15. On 02/01/92, Shri Som Dutt, S/o Shri Phool Chand deposited Rs. 100/- in the bank as a installment towards his loan account RT 70. Shri M.L. Mandiya received the money, while performing his duties has a Cashier. He entered the transaction in the pass book on the credit side. He did not deposit the money with the bank and kept with himself for his own use. He has defrauded the bank with Rs. 100/-. This act of Shri M.L. Mandiya in a manner prejudicial to the interest of bank, besides lowering the image of bank in the eyes of general public.

16. On 20-06-92, Shri Sanwal Ram deposited Rs. 2000/- in the bank as a installment towards his loan account Camel Cart 31. Shri M.L. Mandiya received the money, while performing his duties has a Cashier. He entered the transaction of Rs. 2000/- in the pass book on the credit side and initialed it. He did not deposit the money with the bank and kept the money with himself for his own use. Shri M.L. Mandiya has defrauded the bank with Rs. 2000/-. He has acted in a manner prejudicial to the interest of bank besides lowering the image of bank in the eyes of general public.

17. Shri Tara Chand deposited Rs. 500/- in the month of October towards installment in his pronote account. Shri M.L. Mandiya received the money, while performing his duties has a Cashier. He entered the transaction of Rs. 500/- in the pass book on the credit side and initialed it. He did not deposit the money with the bank and kept the money with himself for his own use. He deposited Rs. 500 on 29-12-92, by filling the deposit slip himself. Shri M.L. Mandiya has misappropriated the bank money for about 3 months. He has acted in a manner prejudicial to the interest of bank besides lowering the image of bank in the eyes of general public.

18. On 15-10-92, Shri Rajesh deposited Rs. 50/- for credit in his JD account 7/36. Shri M.L. Mandiya received the money, while performing his duties has a Cashier. He entered the transaction in the pass book on the credit side and initialed it. He did not deposit the money with the bank and kept the money with himself for his own use. Mr. M.L. Mandiya has defrauded the bank with Rs. 50/-. He has acted in a manner prejudicial to the interest of bank besides lowering the image of bank in the eyes of general public.

19. On 15-10-92, Shri Mukesh deposited Rs. 50/- for credit in his JD account 8/36. Shri M.L. Mandiya received the money, while performing his duties has a Cashier. He entered the transaction of Rs. 50/- in the pass book on the credit side and initialed it. He did not deposit the money with the bank and kept it with himself for his own use. Shri M.L. Mandiya has defrauded the bank with Rs. 50/-. By this act, Shri M.L. Mandiya has acted in a manner prejudicial

to the interest of bank besides lowering the image of bank in the eyes of general public.

20. On 15-10-92, Shri Rakesh deposited Rs. 50/- for credit in his JD account 9/36. Shri M.L. Mandiya received the money, while performing his duties as a Cashier. He entered the transaction of Rs. 50/- in the pass book on the credit side and initialed it. He kept the money with himself and did not deposit the money with the Bank. He has defrauded the bank with Rs. 50/-. By this act, Shri M.L. Mandiya has acted in a manner prejudicial to the interest of bank besides lowering the image of bank in the eyes of general public.

21. Shri Sita Ram deposited Rs. 2000/- for his SB account No. 23 during the month of October, 92. Shri M.L. Mandiya received the money while performing his duties has a Cashier. He entered the transaction of Rs. 2000/- in the pass book on the credit side and initialed it. He did not deposit the money with the bank and kept it himself for his own use. Smt. Kamla Devi W/o Sita Ram during the 1st week of Jan. 1993 visited the bank along with the pass book of account No. 23 to inquire the balance in the account. Sh. M.L. Mandiya took the pass book with plea to complete it and tore it away. He issued a new pass book to Smt. Kamla Devi mentioning all the transactions from the ledger since the inception of account. He even did to got the pass book signed from the manager. He also returned Rs. 2000/- to Sh. Sita Ram at his home during the last week of Jan. 1993. He also misappropriated the bank's money of Rs. 2000/- for about 3 months. Shri M.L. Mandiya has acted in a manner prejudicial to the interest of bank besides lowering the image of bank the eyes of general public. He has also tempered/damage the property of the bank.

22. On 24-11-1992, Sh. Sant Lal deposited Rs. 600/- in the SB account 1097. Shri M.L. Mandiya received the money while performing his duties has a Cashier. He did not deposit the amount and kept the money with himself for his own use. Branch Manager N.K. Sharma received the complaint while checking all the accounts and reported the matter to LBO on 30-04-93. After persuation, Shri M.L. Mandiya deposited Rs. 600/- in the SB account 1097 on 11-05-93. He has misappropriated the money for about 5 months and 17 days. He has acted in a manner prejudicial to the interest of bank besides lowering the image of bank the eyes of general public.

It shows that the workman was using the bank money and sometimes he used to deposit the same after several days. It is not denied that the workman joined the inquiry proceedings and there is nothing on the file that the workman ever agitated having not received the documents before the Inquiry Officer at any stage. Now it is too late to say that he did not receive the documents or the list of witnesses. There is no denial of the fact that a proper charge-sheet was served to him to which he submitted reply and finding the same as not satisfactory, a regular inquiry was ordered. During the inquiry the management produced six witnesses besides

tendering 163 documents. The workman was given opportunity to lead its defence evidence but he did not examine any witness and perusal of the inquiry report shows that he even did not challenge the testimony of the witnesses examined by the management. Considering the evidence, the Inquiry Officer has come to the conclusion that charges against the workman are proved. The learned counsel for the workman did not point out any rules and regulations which were violated while conducting the inquiry. Thus a proper charge sheet was served on the workman and the witnesses were examined by the management in his presence and he was given an opportunity to lead his defence evidence and in the circumstances, it cannot be said that there is any defect in the conduct of the inquiry and the same is held to be fair and proper.

It was argued by the learned counsel for workman that no loss of money has occurred to the bank as the workman used to deposit the money later on, and, in the circumstances, the punishment awarded is not proper. Suffice it to say that the workman was charge sheeted under 22 heads showing that he was dealing with the money of the customers as well as of the bank as per his own will and used to make the entries in the relevant record at his convenience. The bank officers are required to exercise higher standards of honesty and integrity while dealing with the money of the depositors and in the present case the workman is not guilty of keeping the money of depositors with him once or twice but he was found doing so in 22 cases and even in few cases he misappropriated the amount and the conduct of the workman shows that it was not safe for the bank to keep him in service to safeguard the interest of the customers as well as of the bank. In the circumstances, no interference is called for with the punishment inflicted on the workman. In result, considering the entire facts of the case, it is held that the action of the management in dismissing the workman is legal and justified and he is not entitled to any relief. The reference is answered accordingly against the workman. Let hard and soft copy of the copy be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 22 जून, 2015

का.आ. 1292.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय नं० 2, चण्डीगढ़ के पंचाट (संदर्भ सं. 1025/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 22.06.2015 को प्राप्त हुआ था।

[सं एल-12012/80/99-आई आर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 22nd June, 2015

S.O. 1292.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1025/2005) of the Cent. Govt. Indus. Tribunal - cum - Labour Court-II, Chandigarh as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 22/06/2015.

[No. L-12012/80/99-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

PRESENT: Sri Kewal Krishan, Presiding Officer

Case I.D. No. 1025/2005

Registered on 17.9.2005

Sh. Uttam Pal, S/o Sh. D.S. Chauhan, R/o Kirti Nagar, Prem Gali Begu Road, Sirsa.

...Petitioner

Versus

The Regional Manager, Punjab National Bank, Chandni Chowk, Sirsa.

...Respondents

Appearances :

For the workman Sh. R.K. Singh, A.R.

For the Management Sh. N.K. Zakhmi Adv.

AWARD

Passed on 6-11-2014

Central Government *vide* Notification No. L-12012/80/99-IR(B-II) Dated 25.8.1999, by exercising its powers under Section 10 Sub-section (1) Clause (d) and Sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

"Whether the action of the Branch Manager, Chandi Chowk Sirsa Branch of Punjab National Bank and Regional Manager, Regional Office, Punjab National Bank, Hisar in terminating the services of Sh. Uttam Pal S/o Sh. D.S. Chauhan *w.e.f.* 15.5.97 is just and legal? If not, what relief the workman is entitled to?"

In response to the notice, the workman appeared and submitted statement of claim pleading that he was appointed as Peon on 1.12.1994 by the respondent management at Sirsa and his last drawn wages were

Rs.1400/- per month. His services were illegally terminated on 15.5.1997 without service of any notice. It is also pleaded that management used to pay him the salary under the name of some other person. That the Manager of the Sirsa Branch wrote a letter to the Regional Manager on 3.6.1997 regarding the discontinuance of his services showing that the workman worked with the management. Since his termination is in violation of the provisions of the Act, he is entitled to be reinstated in service.

Respondent management filed written reply controverting the averments and denied that the workman was ever employed by it. That he did not work for the management at any stage nor he was paid any salary.

Parties were given opportunities to lead its evidence.

In support of its case, workman appeared in the witness box and filed his affidavit reiterating his case as set out in the claim petition.

On the other hand the management has examined Sh. L.D. Batra who filed his affidavit supporting the case of the respondent management as find mentioned in the written statement.

I have heard Sh. R.K. Parmar, AR of the workman and Sh. N.K. Zakhmi, counsel for the management.

It was vehemently argued by the AR of the workman that workman was employed by the bank as Peon on 1.12.1994 and his services were terminated illegally on 15.5.1997 and since the bank has not produced the record including the payment vouchers, an inference be drawn that he actually worked for the respondent management continuously from 1.12.1994 to 15.5.1997.

I have considered the contentions.

It is the case of the workman that he was appointed as Peon on 1.12.1994 and therefore, it was for the workman to prove this fact by leading cogent evidence. But no evidence has come on the file to show that he was ever appointed by the respondent management as alleged by the workman. Workman himself has stated that no appointment letter was issued to him. No record has come on the file that the workman was ever appointed as per Rules and Regulations governing the respondent management. Again nothing has come on the file to establish that the workman has ever received any salary from the management. Though the bank has not produced the record relating to payment of wages from the year 1994 to 1997 but no adverse inference can be taken against it to the effect that workman was actually an employee of the bank and he has received the salary from it. However the bank has placed on record the photocopies of the attendance registers which are on the file and the name of the workman do not find therein for the period in question. Since there is no cogent evidence that workman was ever appointed and that too as per Rules and Regulations of the bank, it cannot be said by any stretch of

imagination that he actually served the bank and being so, it cannot be said that his services were terminated by the respondent.

In result, it is held that the workman is not entitled to any relief and the reference is answered accordingly. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 22 जून, 2015

का.आ. 1293.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय नं० 2, चण्डीगढ़ के पंचाट (संदर्भ सं. 1026/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 22.06.2015 को प्राप्त हुआ था।

[सं एल-12012/73/99-आई आर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 22nd June, 2015

S.O. 1293.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1026/2005) of the Cent. Govt. Indus. Tribunal-cum-Labour Court-II, Chandigarh as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 22/06/2015.

[No. L-12012/73/99-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri Kewal Krishan, Presiding Officer

Case I.D. No. 1026/2005

Registered on 17.9.2005

Sh. Vikas Sethi, C/o Smt. Asha Sethi, Arya Girls High School, Arya Samaj Road, Sirsa (Haryana).

...Petitioner

Versus

The Regional Manager, Punjab National Bank, Regional Office, Delhi Road, Hisar.

...Respondents

APPEARANCES :

For the Workman Sh. R.K. Singh, A.R.

For the Management Sh. N.K. Zakhmi, Adv.

AWARD

Passed on 6.11.2014

Central Government *vide* Notification No. L-12012/73/99 IR(B-II) dated 18.6.1999, by exercising its powers under Section 10 Sub Section (1) Clause (d) and Sub Section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the Branch Manager, Chandi Chowk Sirsa Branch of Punjab National Bank and Regional Manager, Regional Office, Punjab National Bank, Hissar in terminating the services of Sh. Vikas Sethi *w.e.f.* 15.5.97 is just and legal? If not, what relief the workman is entitled to?"

In response to the notice, the workman appeared and submitted statement of claim pleading that he was appointed as Peon on 17.12.1993 by the respondent management at Sirsa and his last drawn wages were Rs.1400/- per month. His services were illegally terminated on 15.5.1997 without service of any notice. It is also pleaded that management used to pay him the salary under the name of some other person. That the Manager of the Sirsa Branch wrote a letter to the Regional Manager on 3.6.1997 regarding the discontinuance of his services showing that the workman worked with the management. Since his termination is in violation of the provisions of the Act, he is entitled to be reinstated in service.

Respondent management filed written reply controverting the averments and denied that the workman was ever employed by it. That he did not work for the management at any stage nor he was paid any salary.

Parties were given opportunities to lead its evidence.

In support of its case, workman appeared in the witness box and filed his affidavit reiterating his case as set out in the claim petition.

On the other hand the management has examined Sh. L.D. Batra who filed his affidavit supporting the case of the respondent management as find mention in the written statement.

I have heard Sh. R.K. Parmar, AR of the workman and Sh. N.K. Zakhmi, counsel for the management.

It was vehemently argued by the AR of the workman that workman was employed by the bank as Peon on 17.12.1993 and his services were terminated illegally on 15.5.1997 and since the bank has not produced the record including the payment vouchers, an inference be drawn that he actually worked for the respondent management continuously from 17.12.1993 to 15.5.1997. I have considered the contentions.

It is the case of the workman that he was appointed as Peon on 17.12.1993 and therefore, it was for the workman to prove this fact by leading cogent evidence. But no evidence has come on the file to show that he was ever appointed by the respondent management as alleged by the workman. Workman himself has stated that no appointment letter was issued to him. No record has come on the file that the workman was ever appointed as per Rules and Regulations governing the respondent management. Again nothing has come on the file to establish that the workman has ever received and salary from the management. Thought the bank has not produced the record relating to payment of wages from the year 1993 to 1997, but no adverse inference can be taken against it to the effect that workman was actually an employee of the bank and he has received the salary from it. However the bank has placed on record the photocopies of the attendance registers which are on the file and the name of the workman do not find mention therein for the period in question. Since there is no cogent evidence that workman was ever appointed and that too as per Rules and Regulations of the bank, it cannot be said by any stretch of imagination that he actually served the bank and being so, it cannot be said that his services were terminated by the respondent.

In result, it is held that the workman is not entitled to any relief and the reference is answered accordingly. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 22 जून, 2015

का.आ. 1294.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार युको बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 108/99) को प्रकाशित करती है जो केन्द्रीय सरकार को 22/06/2015 को प्राप्त हुआ था।

[सं० एल-12012/200/98-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 22nd June, 2015

S.O. 1294.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 108/99) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of UCO Bank and their workman, received by the Central Government on 22/06/2015.

[No. L-12012/200/98-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL-TRIBUNAL-CUM-LABOUR
COURT, JABALPUR****No. CGIT/LC/R/108/99**

Shri Munnalal Chakradhary,
S/o Ramadhin Chakradhari,
P.O. Hardibazaar,
Tehsil Katkhera,
Bilaspur (MP)

...Workman

Versus

Regional Manager,
UCO Bank
Divisional Office,
No. 97, Anandnagar,
Raipur

...Management

AWARD

Passed on this 14th day of May 2015

1. As per letter dated 28-2/8-3/99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-12012/200/98-IR(B-II). The dispute under reference relates to:

"Whether the action of the management of UCO Bank Divisional Office, Raipur (MP) in terminating the services of Shri Munnalal Chakradhary, Messenger of UCO Bank Branch Gevra Distt. Bilaspur MP *w.e.f.* 10.5.97 without following the provisions of the ID Act, 1947 is justified? If not, to what relief are the workmen entitled?"

2. After receiving reference, notices were issued to the parties. Workman submitted to claim at Page 11/1 to 11/2. Case of Ist party is workman is that he was engaged on daily wages in UCO Bank Gevra Branch from 2-8-88. He was initially paid wages Rs. 12,25, revised wages Rs. 62/- per day. The wages were deposited in Account No. 2344/09 of workman. He was doing work of arranging files. The work related to the post office and bank was done by him. He had written various letters to the Branch Manager, Gevra Branch. He completed 240 days continuous service as per circular dated 19-10-89. He was working 8 hours per day. Documents are not available with him. He had repeatedly asked management reasons for his termination but no reply was given. He was honestly working in the Bank. His services are illegally terminated. On such ground workman prays for his reinstatement with consequential benefits.

3. IInd party filed Written Statement on 3-4-2013 opposing claim of workman. IInd party submits that workman has not mentioned period of his working in the Bank. The statement of claim is filed on 16-5-07 claiming that he was working on daily wages as messenger from 2-8-88. Bank has no documents. As per available record, workman was never working as peon in Gevra Project. There was no vacancy of messenger. Notification of vacancy was not issued. Workman did not submit application for any job. Workman was never appointed on vacant post following recruitment rules. Attendance register was not maintained. Workman has not produced salary receipt, contingency record voucher, record of payment vouchers. He has not produced documents in support of his claim. That he worked more than 240 days preceding termination of his service. That as per settled legal position for claiming benefit under Section 25-F of ID Act, workman has to submit evidence. Documents on record like salary sheet, attendance register to establish working more than 240 days. It is reiterated that the management had submitted applicaiton under Rule 10(B) on 29th March, 2010 requesting production of document by workman. Workman has not responded to it. On such ground, II party prays for rejection of claim.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the action of the management of UCO Bank Divisional Office, Raipur (MP) in terminating the services of Shri Munnalal Chakradhary, Messenger of UCO Bank Branch Gevra Distt. Bilaspur MP <i>w.e.f.</i> 10.5.97 is legal and justified?	Termination of workman is not proved.
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

5. The terms of reference relates to legality of termination of services of workman by IInd party for violation of Section 25-F of ID Act. Workman has filed statement of claim. Thereafter he did not participate in reference proceeding. Workman failed to adduce any evidence in support of his claim. The evidence of workman was closed on 23-1-2014.

6. Management filed affidavit of his witness Shri Dharam Singh supporting contentions of IInd party in Written

Statement. That workman was not appointed following recruitment rules as messenger on vacant post. Workman had not completed 240 days continuous service. Workman was never engaged as peon in the Bank. The evidence of management's witness remained unchallenged. From evidence of management's witness documents Exhibit M-1, M-2 are admitted in evidence. Document Exhibit M-1 is copy of Certificate dated 19-10-89 dealing with empanelment and absorption of persons engaged on daily wages. Exhibit W-2 is copy of circular dated 31-3-90 pertaining to empanelment and absorption of persons engaged in daily wages in terms of settlement dated 12-10-89. As workman has not participated in reference, no evidence is adduced by workman to support his claim or termination of his service by IInd party, I record my finding in Point No. 1 that engagement and termination of services of workman by IInd party is not proved.

7. In the result, award is passed as under:—

- (1) The action of the management of UCO Bank Divisional Office, Raipur (MP) in terminating the services of Shri Munnalal Chakradhary, Messenger of UCO Bank Branch Gevra Distt. Bilaspur MP *w.e.f.* 10-5-97 is not proved.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 22 जून, 2015

का.आ. 1295.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ सं. 19/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 22/06/2015 को प्राप्त हुआ था।

[सं एल-12012/50/2012-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 22nd June, 2015

S.O. 1295.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 19/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata as shown in the Annexure in the Industrial Dispute between the management of Bank of India and their workmen, received by the Central Government on 22/06/2015.

[No. L-12012/50/2012-IR (B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 19 of 2012

Parties:

Employers in relation to the management of
Bank of India

AND

Their workmen

Present : Justice Dipak Saha Ray, Presiding Officer

APPEARANCE:

On behalf of the : Mr. S. Chakraborty, Ld. counsel
Management

On behalf of the : None
Workmen

State : West Bengal

Industry: Banking

Dated: 23rd April, 2015,

AWARD

By Order No. L-12012/50/2012-IR(B-II) dated 23.11.12 the Government of India, Ministry of Labour, in exercise of its powers under Section 10(1) (d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of Bank of India in imposing the punishment of compulsory retirement with superannuation benefits upon Shri Badhu Ram Murmu, Ex-Staff-Clerk-Cashier *vide* Order dated 30.06.2009, is legal and justified? What relief the concerned workman is entitled to?"

2. When the case is taken up for hearing today, none appears on behalf of the workman though the management is represented by its Ld. Counsel.

3. From the record it appears that the concerned workman has already passed away. No application has yet been filed by the heir(s) of the deceased workman for substitution. Considering the above facts and circumstances, it appears that the heirs of the deceased workman is/are not interested about this case. So, no fruitful purpose will be served by keeping the present reference pending further.

In view of the above, present reference is disposed of by passing a "No Dispute" Award.

Justice DIPAK SAHA RAY, Presiding Officer

Dated, Kolkata,
The 23rd April, 2015

नई दिल्ली, 22 जून, 2015

का.आ. 1296.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडिया गेटवे टर्मिनल लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय अरूनाकुलम के पंचाट (संदर्भ सं. 41/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 22/06/2015 को प्राप्त हुआ था।

[सं. एल-35025/01/2014-आईआर (बी-II)
रवि कुमार, डेस्क अधिकारी

New Delhi, the 22nd June, 2015

S.O. 1296.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), of the Central Government hereby publishes the Award (Ref. 41/2014) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure in the Industrial Dispute between the management of India Gateway Terminal Limited and their workmen, received by the Central Government on 22.06.2015.

[No. L-35025/01/2014-IR(B-II)]
RAVIKUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

PRESENT: SHRI D. SREEVALLABHAN, B.SC., LLB,
Presiding Officer

(Thursday the 23rd day of April, 2015/3rd Vaisakha, 1937)

ID 41/2014

Union	:	Swathanthra Container Lorry Thozhilali Union C/23/1573, Kizhakke Ayyamveliparambu KMP Nagar, Palluruthy COCHIN-682006 By Adv. Shri C. Anilkumar
Management	:	India Gateway Terminal Limited Regd. Office, Administration Building ICTT, Vallarpadam. SEZ Ernakulam-682504 By M/s Menon & Pai

This case coming up for final hearing on 23.04.2015 and this Tribunal-cum-Labour Court on the same day passed the following:

AWARD

In exercise of the powers conferred by clause (d) of sub-section(I) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government/Ministry of Labour *vide* Order No. L-35025/01/2014-IR(B-II) dated 22.08.2014 referred the industrial dispute scheduled thereunder for adjudication to this tribunal.

2. The dispute is:

"Whether the demand of Swathanthra Container Lorry Thozhilali Union for regularization of services of Shri Amal Babu. K.B., Andral Stessel Faria, George, K.M., Antony Resil C.J., Sarush. T.S. Sijoy George working as reefer technicians and Shri Kannan. AR, Nikhil, KP, Arun Jacob Junior reefer technicians engaged by M/s. India Gateway Terminal Private Ltd. through contractors is justified or not? What relief the workers are entitled.

3. After receipt of summons both union and management entered appearance. When the case stood posted for claim statement learned counsel for both sides have submitted that the workmen involved in this industrial dispute were absorbed in the regular service of the contractor after the reference and as they are satisfied with their present position it is not necessary to further proceed with the I.D. Union has also filed a memo stating that as those workmen were already absorbed in service no adjudication is necessary. As there exists no dispute, the ID is disposed of by passing 'no dispute award.'

The award will come into force one month after its publication in the Official Gazette.

D. SREEVALLABHAN, Presiding Officer

नई दिल्ली, 22 जून, 2015

का.आ. 1297.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कोचीन पतन न्यास के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय अरूनाकुलम के पंचाट (संदर्भ सं. 3/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 22/06/2015 को प्राप्त हुआ था।

[सं. एल-35011/02/2012-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 22nd June, 2015

S.O. 1297.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), of the Central Government hereby publishes the Award (Ref. 3/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court Ernakulam as shown in the Annexure in the Industrial Dispute between the management of Cochin Port Trust

and their workmen, received by the Central Government on 22.06.2015.

[No. L-35011/02/2012-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

PRESENT: SHRI D. SREEVALLABHAN, B.SC., LL.B,
Presiding Officer

(Thursday the 30th day of April, 2015/10th Vaisakha, 1937)

ID 3/2013

Union : The General Secretary
Cochin Port Staff Association
Wellington Island
Cochin-682006

By M/s. A.V. Xavier

Management : The Chairman
Cochin Port Trust
W/Island
Cochin-682009

By M/s B.S. Krishnan Associates

This case coming up for final hearing on 29.04.2015 and this Tribunal-cum-Labour Court on the 30.4.2015 passed the following:

AWARD

In exercise of the powers conferred by clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government/Ministry of Labour *vide* Order No. L-35011/2/2012-IR(B-II) dated 03.12.2012 referred the industrial dispute scheduled thereunder for adjudication to this tribunal.

2. The dispute is:

"Whether the action of the management of Cochin Port Trust in denying the request of three mazdoors in the patch work section for regularisation in the black smith section, if no regular and substantive post of basic tradesman (Tinsmith) is available in the workshop, is legal and justified? What relief workmen concerned are entitled to?"

3. At the time when the case stood posted for evidence after submission of the respective pleadings by both parties learned counsel for the Union has submitted that it is not necessary to have any adjudication as there exists no dispute between the parties and the workmen

involved in the ID do not want any relief. Union has filed a statement stating that out of the three workmen Shri E.C. Thilodharan and Shri P L Joseph had already retired from service and Shri K V Suresh Babu left the union abandoning the relief sought through this dispute and hence there is no existing dispute to be adjudicated for granting any relief to them. A copy of the same was served to management. Learned Counsel for the management has submitted that as there exists no dispute between the parties a 'no dispute award' can be passed in this case. As the union does not want any adjudication since there is no existing dispute a 'no dispute award' is passed in this case.

The award will come into force one month after its publication in the Official Gazette.

D. SREEVALLABHAN, Presiding Officer

नई दिल्ली, 23 जून, 2015

का.आ. 1298.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी०सी०आई० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 28/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 23/06/2015 को प्राप्त हुआ था।

[सं० एल-42012/220/2004-आईआर (सीएम-II)]

मो. जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 23rd June, 2015

S.O. 1298.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), of the Central Government hereby publishes the Award (Ref. 28/2005) of the Cent.Govt.Indus. Tribunal-cum-Labour Court Lucknow as shown in the Annexure in the Industrial Dispute between the management of Broadcasting Corporation of India, Doordarshan and their workmen, received by the Central Government on 23.06.2015.

[No. L-42012/220/2004-IR(CM-II)]

Md. ZAHID SHARIF, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT: Dr. MANJU NIGAM, Presiding Officer

I.D. No. 28/2005

Ref. No. L-42012/220/2004-IR(CM-II) dated: 04.08.2005

Between

Shri Amrit Lal Yadav S/o Late Shri Bhawandin
Vill. Sikanderpur (Jankipur)
Lucknow.

And

1. The Director, Prasar Bharati
Broadcasting Corporation of India
Doordarshan Kendra
Lucknow

2. The Director General (Doordarshan).
Doordarshan Broadcasting Corporation of India
Prasar Bharati, Directorate of Doordarshan
New Delhi.

AWARD

1. By order No. L-42012/220/2004-IR(CM-II) dated: 04.08.2005 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Shri Amrit Lal Yadav S/o Late Shri Bhawandin, Vill. Sikanderpur (Jankipur), Lucknow and the Director, Prasar Bharati, Broadcasting Corporation of India, Doordarshan Kendra, Lucknow & the Director General (Doordarshan), Doordarshan Broadcasting Corporation of India, Prasar Bharati, Directorate of Doordarshan, New Delhi for adjudication.

2. The reference under adjudication is:

"Kya Prabandhan, Doordarshan Kendra, Lucknow/New Delhi Dwara Shri Amrit Lal Yadav Putra Sw. Shri Bhagwandeem Casual Programme Staff Shreni C Ko Seewa Main Niyamitikaran N Kar Ke Dinank 11.07.2001 Se Naukari Se Nikal Diya Jana Uchit Tatha Nayaysangat Hai? Yadi Nahi, to Karmkaar Kis Anutosh Ko Pane ka Adhikaari Hai?"

3. The case of the workman Amrit Lal Yadav in brief, is that he was engaged by the opposite party as Casual Programme Staff in Group 'C' category on 07.07.1986 and he worked regularly up to 10.07.2001. It has been submitted by the workman that there had been a scheme for regularization of the casual employees dated 09.06.1992, 17.03.1994 and 05.07.1994; but the management did not regularize his services stating that the workman is over age by one year three months and eight days. It has been alleged by the workman that the management contained in Section 25 F of the I.D. Act, 1947. Accordingly, the workman has prayed that the action of the management in denying him regularization be declared illegal and he be regularized into the services.

4. The management of the Doordarshan has denied the claim of the workman by filing its written statement; wherein it was submitted that the workman had never been appointed as a casual artist *ad hoc* or otherwise, no appointment letter was issued to the workman, therefore, there is no question of termination or retrenchment of his services *w.e.f.* 10.07.2001. It was submitted that the workman was engaged for short spells to carryout casual nature of

work purely on the basis of actual requirement of programme production for not more than 10 days in a month. It was further submitted that the workman's case was considered for regularization, it terms of regularization scheme dated 09.06.1992 as well as the modified scheme dated 17.03.1994 and 05.07.1994, but he was found ineligible being over age in terms of scheme dated 09.06.1992, therefore, he could not be regularized. It is also submitted that all those who were regularized by the management were regularized in accordance with regularization scheme dated 09.06.1992 and 17.03.1994. Accordingly, the management of the Doordarshan has prayed that the claim of the workman be rejected being devoid of merit.

5. The workman has filed its rejoinder wherein he has stated that his date of birth is 10.03.1959 as per his matriculation certificate and as per Rules the age limit for the post of Production Assistant is 21-30 years. It was further stated that the case of Smt. Dixit whose date of birth and date of initial engagement was 26.07.61 and 12.02.91 respectively, was considered for regularization, in terms of scheme dated 09.06.92, as per direction of Hon'ble CAT, Lucknow in O.A. No. 500/95 *vide* order dated 08.11.2001 and she was given age relaxation of one year. Rest is mere reiteration of the averments already made in the statement of claim.

6. The parties have adduced documentary as well as oral evidence in support of their respective cases. The workman has examined himself whereas the management has examined Shri G.P. Pandey, Senior Administrative Officer in support of their pleadings. The parties availed opportunity to cross-examine the witnesses of each other. The workman forwarded its oral arguments; but the management refrained to argue its case in spite of ample opportunities have been forwarded to them; accordingly, the case was heard *ex-parte* against the management.

7. Heard the authorized representative of the workman alone and gone through entire evidence available on record.

8. The workman's representative has submitted that the workman has been engaged as Casual Programme Staff by the opposite party on 07.07.1986 and worked as such till 10.07.2001 regularly when his services have been terminated by the opposite party without assigning any rhyme or reason or any notice pay or any notice pay in lieu thereof in contravention to the provisions contained in the Section 25 F of the I.D. Act. He has also argued that when he was in service the management devised a scheme for regularizing the casual artists, *vide* dated 09.06.92 and thereafter modified scheme *vide* dated 17.03.94 and 05.07.94, who worked as casual artists with the opposite party as on 31.12.1991, but the management did not regularize his services in spite of the fact that he was fully eligible within the terms and conditions of the said regularization schemes. The workman has argued that the management did not extend the benefits of the regularization to him taking excuse that he was over

age; but he was well under age when joined the opposite party and also after giving him age relaxation as provided in the regularization scheme his services would have regularized. It is also argued that the management was required to regularized the seniors first and for this the management was ought to maintain seniority list/muster roll as envisaged under the provisions contained in the Section 25 D of the Act; but the management not only failed to comply with the provisions of the Section 25 D of the Act; but also regularized many juniors viz. Shri Umesh Chandra Mishra, Mo. Nasir, Rakesh Kumar Kukreti, Ramesh Chandra Shukla, Mueen Ansari, Sishir Kumar Singh, Atul Mishra, Smt. Rekha Gupta, Smt. Seem Kazmi and Anjali Dixit, ignoring the workman. In this regard the workman has relied on the decision of Hon'ble Apex Court in Union of India vs. Rakesh Kumar Kukreti and others in Civil Appeal No. 1122-1136 of 1999.

9. Per contra, the management's case is that the workman was never appointed by it; rather he was engaged by the management to perform the work of casual nature as and when required, in short spells. His engagement ended with the end of work/engagement period; therefore, there is no question of terminating his services at any point of time. It was further pleaded that the case of the workman was considered for regularization, within the terms and conditions provided under the regularization schemes dated 09.06.92, 17.03.94 and 05.07.94; but he could not qualify for the same, even after giving him permissible age relaxation.

10. I have given my thoughtful consideration to the rival submissions of the parties and scanned entire evidence available on record.

11. In the present case, admittedly, there was no regular appointment of the workman and he was engaged by the opposite party management on casual basis to work as Casual Programme Staff for specified time period on fixed payment. He was also given breaks and or his engagement used to come to an end with the end of the specified work/period.

It has come into the pleadings and evidence of the parties that in pursuance to the directions of the Central Administrative Tribunal, Principal Bench, New Delhi vide their order dated 14.02.92 in O.A. No. 563/86 between Anil Kumar Mathur vs. Union of India, a scheme for regularization of casual artists in Doordarshan was launched vide Office Memorandum dated 09.06.1992, which was further modified vide Office Memorandum dated 17.03.94 and 05.07.94. All the Casual Artists who were employed on casual basis on 31.12.1991, including those who were on the rolls of the Doordarshan, though they may not be in services at that time were eligible for consideration. In this regard the workman's case is that the management regularized other juniors, sparing him in spite of the fact that he fulfilled the eligibility criteria of the scheme; and in

rebuttal the management witness has stated that the Hon'ble Supreme Court vide order dated 20.03.2002 in Civil Appeal No. 1122-1136 directed the management to decide the cases of the casual artists in accordance with the regularization scheme dated 09.06.92 and thereafter modified scheme vide dated 17.03.94 and 05.07.94. The workman was a party in the said SLP; and accordingly, his case was taken up by the management in terms of scheme dated 09.06.92; but he was found eligible for regularization even after giving him age relaxation.

12. The workman has relied on order of Hon'ble Supreme Court in Civil Appeal No. 1122-1136 of 1999 between Union of India & others vs. Rakesh Kumar Kukreti & others; wherein Hon'ble Apex Court has observed that the questions raised in the appeals are squarely covered by a decision of the Court in Director, Doordarshan Kendra, Trivandrum and others vs. S. Kuttan Pillai and others (1998) 8 SCC 736. Hon'ble Apex Court in Kuttan Pillai case, while deciding the case, where norms for relaxation of age for the purpose of regularization and for the purpose of recruitment were different in respect of respondent Floor Assistants engaged on casual basis in the Doordarshan Kendra, Trivandrum seeking regularization, held that the relaxation in age could be granted to the respondents only in accordance with the scheme notified by the OM dated 09.06.1992 as modified by OM's dated 17.03.1994 and 05.07.2004.

13. Thus, the point for consideration is whether the workman was eligible for regularization in terms of the regularization scheme dated 09.06.92 and thereafter modified vide dated 17.03.94 and 05.07.94. For apt appreciation of the case of the workman regularization on merit it would be necessary to quote the salient features of the relevant regularization schemes dated 09.06.92, 17.03.94 and 05.07.94.

"No. 1516/2(3)

Dated: 09.06.1992

Office Memorandum

Subject: Scheme for Regularization of Casual Artists in Doordarshan.

Annexure to the above OM.

Scheme for regularization of casual erstwhile staff Artists in Doordarshan as per the judgement in OA No. 563/86, dated 14.2.1992 in M/s. Anil Kumar Mathur vs. Uol case.

1. This scheme would be applicable to all those Casual Artists who were employed on Casual basis on 31.12.1991 including those who were on the rolls of the Doordarshan, though they may not be in services now will be eligible for consideration. Those who are engaged on casual basis after 31.12.1991 will not be eligible for consideration.

2. Only those Casual who had been engaged for an aggregate period of 120 days in a year (calendar year) will be eligible for regularization. The broken period in between the engagement and disengagement will be ignored for the purpose. The number of days is to be computed on the basis of actual working days in the muster rolls or attendance sheets or Q-sheets.
3. Separate eligibility panels will be prepared for each category of posts, Kendra-wise, depending upon the length of service of Casual Artists. They will be considered for regularization in the order of their seniority against the available vacancies in that particular Kendra. The seniority will be determined from the date of their initial engagement by the Kendra.
4. The persons who are in the eligibility panel of one Kendra will have no right for claiming regularization in another Kendra as these are generally Group 'C' posts and selection is made Kendra-wise.
5. The Casual Artists who are to be regularized should possess the requisite educational requisite qualification and/or experience as stipulated in the Recruitment Rules of other administrative instructions (in the absence of Recruitment Rules) existing for the post when the casual worker was initially engaged.
6. The upper age limit would be relaxed to that extent of service rendered by the Casual Artists at the time of regularization. A minimum of 120 days service in the aggregate, in one year, shall be treated as one year's service rendered for this purpose. The service rendered for less than 120 days in a year will not qualify for age relaxation.
7. The regularization of Casual Artists would be from prospective date and the Casual Artists on the eligibility panel who fail to qualify for regularization in accordance with the recruitment rules and instructions issued there under the post, shall be removed from the panel.
8. If a Casual Artist on an eligibility panel commits a misconduct and the same is.....would not be eligible for regularization.
9. Till all the Casual Artists.....no panel of eligible "Casual Artists."

"No. 2(J)/-S.1

Dated: 17.03.1994

Office Memorandum

Sub: Scheme for regularization of Casual Artists in Doordarshan

The undersigned is directed to invite attention to DG: D.O.M. of even number dated 09.06.92 on the above subject, with which a copy of the scheme for regularization of Casual Artists of Doordarshan was circulated. According

to condition in para 2 of the scheme, the number of days for the purpose of regularization is to be computed on the basis of actual working days in the Muster Rolls or Attendance Sheets or 'Q' sheets.

2. It has been brought to the notice of this Directorate that although these Casual Staff Artists were engaged for 10 days or have been working on 2-3 assignments in a month on a consolidated amount of Rs. 400-500 per assignment, but in actual practice, they have been working throughout the month. This aspect has been examined by the Directorate in consultation with Ministry of I&B and procedure to be followed for arriving at the number of days of casual working will be as under.

3. The number of days for the purpose of regularization will be computed on the basis of actual wages given to the prevalent in the state during the relevant time of working. For example, if a Casual Staff Artists has been paid an aggregate sum of Rs. 1500 in a month whether for working for 10 days or for 2-3 assignments in a month and the minimum wage prevalent in the State at the relevant time was Rs. 50, the staff artists would be deemed to have worked for 30 days in a month (*i.e.* Rs. 1500 divided by 50) subject to the condition that the days so computed would not exceed 25 days in a month.

4. It has also been noticed that certain staff artists were engaged initially when there were over-age according to the Recruitment Rules. All such cases, with the number of days they worked on casual basis according to the formula laid down in Para 3, should be referred to the Directorate for taking a decision on merit."

"No. 4(1)/94-S.I.

Dated: 05.07.94

Office Memorandum

Sub: Regularization of Casual Artists as per revised Scheme dtd. 13.0.94

The attention of all Doordarshan Kendras is invited to this Directorate; Memo No. 2(3)/86-S.I., dated 17.03.1994, copy enclosed, on the above subject. Various Doordarshan Kendras have sought certain clarifications on a number of points in regard to Revised Scheme, these points are clarified as under:—

- (a) Kendras are competent to prepare the eligibility list of Casual Artist in accordance with Para 3 of the Revised Scheme and regularize them against available vacancies in their respective category on the basis of seniority.
- (b)
- (c) The crucial date for the purpose of calculation of age is the same as in 1992 Scheme, *i.e.* 09.06.92 and there is no change in it.
- (d) For the purpose of age relaxation, the number of days engagement should be taken into account up

to 09.06.92. The period of engagement, if any, beyond 09.06.92 in the year 1992 should not be counted for the purpose of age relaxation.

- (e) Casual Artists who have worked for 120 days in any calendar year as per revised scheme too up to the period ending on 31st December, 1991 should be considered for regularization. The casuals who have completed 120 days after 31.12.1991 are not currently counted for regularization.
- (f)
- (g)
- (h) The rates of wages prevalent by the State Government from time to time by way of minimum wage Act in which Kendra concerned falls, are to be taken for calculation of number of days of Casual Artists at that Kendra. The total amount paid to an individual Casual Artist during the month are to be divided by per day rate of payment of minimum wage for calculation of number of days in a month. The classification in different scales of pay/fee in Group 'C' and 'D' etc. is not required. The maximum number of days so calculated should be restricted to 25 days in a month.
- (i)
- (j) Where the minimum wage Act prior to 01.05.1989 are not prescribed and available, the computation of number of days should be done by the following formula:—

Total amount paid during the month/30 = Amount for one day.

The maximum number of days so arrived at should be restricted to 25 days in month only."

A bare perusal of the above office memorandums shows that the benefit of the regularization scheme dated 09.06.92 was available to those casual artists who were employed on casual basis as on 31.12.1991 and were engaged for an aggregate period of 120 days in a calendar year. Also, the casual artist should have been in possession of requisite education qualification and experience. Also, they should have been within the upper age limit, which was relaxable to the extent of services rendered by the casual Artist at the time of relaxation *i.e.* on 31.12.1991. However, the modifications to the scheme dated 09.06.92 were issued *vide* scheme dated 17.03.94 and 05.07.1994; but the crucial date for eligibility and for the purpose of calculation of age and age relaxation etc. remained same as that in the scheme dated 09.06.92.

14. Now, entering into the merit of the case, the matter has to be examined as to whether the workman was eligible for regularization within the terms and conditions of the

above quoted schemes. In this regard the case of the workman is that he was engaged on 07.07.1986 as Casual Programme Staff, when he was well within the age as prescribed in the Ruels, He has filed photocopy of his matriculation certificate wherein his date of birth is mentioned as 01.03.1959. He has also filed photocopy of advertisement seeking application for the post of Production Assistant; wherein the prescribed age limit for the post has been mentioned as 21-30 years. Therefore, it comes out that when the workman was engaged initially he was well within the prescribed age for the post; but when the scheme for regularization dated. 09.06.92 came into force he had become over age on the crucial date of eligibility *i.e.* on 31.12.91 when he was approximately of 32 years and 09 months' age. Moreover, it is the case of the management that the case of the workman was considered within the terms of scheme dated 09.06.92, 07.03.94 and 05.04.94; but he could not get the benefit of regularization being overage by one year three months and eight days. In this connection, it is pertinent to mention here that as per age relaxation clause provided in the scheme, a casual artist can get age relaxation with respect to the upper age limit, to the extent of services rendered by him at the time of regularization. As per scheme, for upper age relaxation, a minimum of 120 days service in the aggregate, in one year, was required to be treated as one year's service rendered for this purpose, service rendered for less than 120 days in year were not be considered for age relaxation. The workman as alleged that the management did not give any weightage for the services rendered by him for considering age relaxation, which resulted in to his disqualification for the regularization. In this respect, the management of the Doordarshan in its evidence has stated that the workman was provided age relaxation of two years even than he could not qualify the terms of regularization being over age.

15. The workman his pleadings, pleaded that he was within the age limit when initially engaged; but got over age during his engagement. He has further pleaded that had he been given age relaxation, he would have come within the ambit of the regularization scheme. This pleading of the workman has been denied by the management through pleadings as well as in its evidence with specific statement that the workman was given two years age relaxation since he had completed 120 days in the year 1987 and 1988; even then he failed to qualify for regularization as per regularization schemes. As per settled law, the initial burden was on the workman to prove before this Tribunal that he was eligible for age relaxation and for this he was required to prove, through cogent evidence, that he actually worked for 120 days in aggregate in a calendar year for seeking age relaxation in order to come within the purview of terms of regularization scheme.

In this regard it is noteworthy to mention that from the advertisement of the post it is clear that the prescribed

upper age limit for the post is 30 years and as per matriculation certificate, filed by the workman, his date of birth is 01.03.1959, which goes to show that his age on the cutoff date as per regularization scheme *i.e.* 31.12.1991 was 32 years and 09 months. Therefore, it is apparent that the workman was over age by 02 years and 09 months only. Also, as per pleadings and statement of the management witness, the workman was permitted 02 years age relaxation as he worked for 120 days in the years 1987 and 1988. As per O.M. dated 05.07.94. Thus, it comes out that the workman fell short of relaxation for 09 months only.

16. Admittedly, the workman worked with the management, intermittently; but the workman has neither given any detail for his working nor any reliable proof for payments made to him during different calendar years of engagement as contended by him. For calculating 120 days working a formula has been enumerated in the scheme dated 17.03.1994 *vide* para 03 as under:

"3. The number of days for the purpose of regularization will be computed on the basis of actual wages given to the prevalent in the State during the relevant time of working. For example, if a Casual Staff Artist has been paid an aggregate sum of Rs. 1500 in a month whether for working for 10 days or for 2-3 assignments in a month and the minimum wage prevalent in the State at the relevant time was Rs. 50, the Staff Artists would be deemed to have worked for 30 days in a month (*i.e.* Rs. 1500 divided by 50) subject to the condition that the days so computed would not exceed 25 days in a month.

The above method of calculating the working days is based on the monthly payment made to a casual artist divided by minimum wages prevalent in the State at the relevant time. The workman has not provided the details of his working days or monthly payment made to him the management. He has not even tried to summon the relevant documents from the management *i.e.* engagement letters, payment slips or vouchers or attendance sheets or 'Q' Sheets as envisaged in the scheme itself. Since the workman has not filed any details regarding the payments received by him in different years of his engagement it is not possible to calculate the number of working days in a calendar year to grant age relaxation to the workman.

Per contra, the case of the management is quite clear in this regard; whereby it has pleaded in para 04 of its written statement that the services of the workman were obtained indifferent spells as per details given hereunder:

Year	No. of days worked
1986	15
1987	121 days
1988	187 days
1989	17 days

From perusal of the above working details given by the management, it comes out that the management has granted

two years age relaxation in terms of scheme for regularization. Hence, in view of the specific pleading and evidence of the management, regarding working of the workman, which makes him entitled for age relaxation for only two years, it was incumbent upon the workman to prove, through cogent evidence that he actually worked for 120 days in successive years of his engagement to grant him further age relaxation as proved in the schemes dated 09.06.92 specifically the scheme dated 17.03.94.

The workman utterly failed to established that he actually worked for 120 days in aggregate in more than two calendar years to given him benefit of age relaxation as per scheme dated 09.06.92; and in the absence of any proof it is hard to carve any finding that the workman was entitled for regularization in terms of scheme dated 17.03.94, after giving age relaxation of approximately more than two years.

16. As regard termination of the workman on 10.07.2001, the management has pleaded that the workman was never appointed by the opposite party; rather he was engaged for short spells on casual basis as and when required by it. This fact is admitted by the workman in pleadings as well as in his evidence. Moreover, the workman himself has filed offer letters which goes to show that he had been engaged by the management for specified time, therefore, the end of engagement on completion of task or engagement period does not amounts to termination of services.

17. The workman pleaded that the management has terminated his services without complying with the provisions of Section 25F of the Act. In this regard the burden lies upon the workman to prove that he has worked for 240 days in preceding one years from the date of alleged termination as per provision of the Act and as per law laid down in 2005 (107) FLR 1145 (SC) Surenderanagar Panchayat and another vs. Jethabhai Pitamberbhai; wherein Hon'ble Apex Court came to the conclusion that where the workman failed to prove that he had been in employment with the employer for a period of 240 days uninterruptedly, he is not entitled to the protection, in compliance of section 25 F of the Industrial Disputes Act, 1947. It was held by the Hon'ble Supreme Court that the scope of the enquiry before the Labour Court was confined only to 12 months preceding the date of termination to decide the question of the continuous service for the purpose of section 25-F of the Industrial Disputes Act, 1947. Further, Hon'ble Apex Court has observed as under:

"The claimant, apart his oral evidence has not produced any proof in the form of receipt of salary or wages for 240 days or record of his appointment or engagement for that year to show that he has worked with the employer for 240 days to get the benefit under section 25-F of the Industrial Disputes Act. It is now well settled that it is for the claimant to lead evidence to show that he in fact worked for 240 days in a year preceding his termination."

Therefore, in view of the above referred case law, in order to take any relief for non-compliance of mandatory provisions contained in section 25-F of the Act, it is necessary for the claimant to lead evidence to the effect that he was actually in employment of the opposite party for 240 days in the year preceding his termination and he was actually paid for it. In the instant case although there is pleading that provisions of Section 25-F of the Act, have not been complied with, there is no piece of evidence to show that the workman worked for 240 days with the management of Doordarshan in twelve calendar months preceding the date of termination. It is pertinent to mention here that the workman has failed to substantiate this fact that the workman worked for 240 days in a year preceding the date of termination.

18. Thus, in view of the facts and circumstances of the case and the case laws laid down by the Hon'ble Apex Court. I am of considered opinion that the workman's claim for regularization in the services of the Doordarshan not sustainable in the eye of law being beyond the ambit of regularization schemes dated 09.06.1992 and the modified schemes dated 17.03.1994 and 05.07.1994. Accordingly, the reference is adjudicated against the workman, Amrit Lal Yadav; as such he is not entitled for any relief.

19. Award as above.

LUCKNOW Dr. MANJU NIGAM, Presiding Officer
05th May, 2014.

नई दिल्ली, 23 जून, 2015

का.आ. 1299.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी०सी०आई० के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ सं० 34/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 23.06.2015 को प्राप्त हुआ था।

[सं० एल-42012/183/2004-आईआर (सीएम-II)]

मो. जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 23rd June, 2015

S.O. 1299.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 34/2005) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of Broadcasting Corporation of India and their workmen, received by the Central Government on 23/06/2015.

[No. L-42012/183/2004-IR (CM-II)]

Md. ZAHID SHARIF, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, LUCKNOW

Present :

Dr. MANJU NIGAM, Presiding Officer

I.D. No. 34/2005

Ref. No. L-42012/183/2004-IR (CM-II) dated: 04.08.2005

Between

Shri Akhilesh Kumar Saxena
S/o Late N.L. Saxena
240, Phoolbagh
Lucknow

And

1. The Director, Prasar Bharati
Broadcasting Corporation of India
Doordarshan Kendra
Lucknow

2. The Director General, Prasar Bharti
Broadcasting Corporation of India
Doordarshan, Directorate General of Doordarshan
New Delhi.

AWARD

1. By order No. L-42012/183/2004-IR(CM-II) dated: 04.08.2005 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Shri Akhilesh Kumar Saxena, S/o Late N.L. Saxena, 240, Phoolbagh, Lucknow and the Director, Prasar Bharati, Broadcasting Corporation of India, Doordarshan Kendra, Lucknow & the Director General, Prasar Bharati, Broadcasting Corporation of India, Doordarshan, Directorate General of Doordarshan, New Delhi for adjudication.

2. The reference under adjudication is:

"Kya Prabandhan, Doordarshan Kendra, Lucknow/New Delhi Dwara Shri Akhilesh Kumar Saxena putra Sw. Shri N.L. Saxena, akasmik floor sahayak ko Sewa Main Niyamiti Na Kar Ke Dinank 11.07.2001 Se Naukari se nikal diya jana uchit tatha nayaysangat hai? Yadi nahi, to Karmkaar kis anutosh pane ka adhikaari hai?"

3. The case of the workman, Akhilesh Kumar Saxena, in brief, is that he was engaged by the opposite party as Casual Floor Assistant on 14.12.1984 and he worked regularly up to 20.07.2001. It has been submitted by the workman that there had been a scheme for regularization of the casual employees dated 09.06.1992, 17.03.1994 and 05.07.1994; but the management did not regularize his

services stating that the workman is over age. It has been alleged by the workman that the management terminated his services on 20.07.2001 without following the due procedure as contained in Section 25 F of the I.D. Act, 1947. Accordingly, the workman has prayed that the action of the management in denying him regularization be declared illegal and he be regularized into the services.

4. The management of the Doordarshan has denied the claim of the workman by filing its written statement; wherein it was submitted that the workman had never been appointed as a casual artist adhoc or otherwise, no appointment letter was issued to the workman, therefore, there is no question of termination or retrenchment of his services *w.e.f.* 20.07.2001. It was submitted that the workman was engaged for short spells to carryout casual nature of work purely on the basis of actual requirement of programme production for not more than 10 days in a month. It was further submitted that the workman's case was considered for regularization, in terms of regularization scheme dated 09.06.1992 as well as the modified scheme dated 17.03.1994 and 05.07.1994, but he was found ineligible being over age by four years nine months and six days, in terms of scheme dated 09.06.1992, therefore, he could not be regularized. It is also submitted that all those who were regularized by the management were regularized in accordance with regularization scheme dated 09.06.1992 and 17.03.1994. Accordingly, the management of the Doordarshan has prayed that the claim of the workman be rejected being devoid of merit.

5. The workman had filed its rejoinder wherein he has stated that his date of birth is 03.09.1956 as per his matriculation certificate and as per Rules the age limit for the post of Production Assistant is 21-30 years. It was further stated that the case of Smt. Dixit whose date of birth and date of initial engagement was 26.07.61 and 12.02.91 respectively, was considered for regularization, in terms of scheme dated 09.06.92, as per direction of Hon'ble CAT, Lucknow in O.A. No. 500/95 *vide* order dated 08.11.2001 and she was given age relaxation of one year. Rest is mere reiteration of the averments already made in the statement of claim.

6. The parties have adduced documentary as well as oral evidence in support of their respective cases. The workman has examined himself whereas the management has examined Shri G.P. Pandey, Senior Administrative Officer in support of their pleadings. The parties availed opportunity to cross-examine the witnesses of each other. The workman forwarded its oral arguments; but the management refrained to argue its case in spite of ample opportunities have been forwarded to them; accordingly, the case was heard *ex-parte* against the management.

7. Heard the authorized representative of the workman alone and gone through entire evidence available on record.

8. The workman's representative has submitted that the workman has been engaged as Casual Floor Assistant by the opposite party on 14.12.1984 and worked as such till 20.07.2001 regularly when his services have been terminated by the opposite party without assigning any rhyme or reason or any notice pay or any notice pay in lieu thereof in contravention to the provisions contained in the Section 25 F of the I.D. Act. He has also argued that when he was in service the management devised a scheme for regularizing the casual artists, *vide* dated 09.06.92 and thereafter modified scheme *vide* dated 17.03.94 and 05.07.94, who worked as casual artists with the opposite party as on 31.12.1991; but the management did not regularize his services in spite of the fact that he was fully eligible within the terms and conditions of the said regularization schemes. The workman has argued that the management did not extend the benefits of the regularization to him taking excuse that he was over age, but he was well under age when joined the opposite party and also after giving him age relaxation as provided in the regularization scheme his services would have regularized. It is also argued that the management was required to regularized the seniors first and for this the management was ought to maintain seniority list/muster roll as envisaged under the provisions contained in the Section 25 D of the Act; but the management not only failed to comply with the provisions of the Section 25 D of the Act; but also regularized many juniors *viz.* Shri Umesh Chandra Mihra, Mo. Nasir, Rakesh Kumar Kukreti, Ramesh Chandra Shukla, Mueen Ansari, Sishir Kumar Singh, Atul Mishra, Smt. Rekha Gupta, Smt. Seem Kazmi and Anjali Dixit, ignoring the workman. In this regard the workman has relied on the decision of Hon'ble Apex Court in Union of India vs. Rakesh Kumar Kukreti and others in Civil Appeal No. 1122-1136 of 1999.

9. Per contra, the case of the management is that the workman was never appointed by it; rather he was engaged by the management to perform the work of casual nature as and when required, in short spells. His engagement ended with the end of work/engagement period; therefore, there is no question of terminating his services at any point of time. It was further pleaded that the case of the workman was considered for regularization, within the terms and conditions provided under the regularization schemes dated 09.06.92, 17.03.94 and 05.07.94; but he could not qualify for the same, even after giving him permissible age relaxation.

10. I have given my thoughtful consideration to the rival submission of the parties and scanned entire evidence available on record.

11. In the present case, admittedly, there was no regular appointment of the workman and he was engaged by the opposite party management on casual basis to work as Casual Floor Assistant for specified time period on fixed payment. He was also given breaks or his engagement used to come to an end with the end of the specified work/period.

It has come into the pleadings and evidence of the parties that in pursuance to the directions of the Central Administrative Tribunal, Principal Bench, New Delhi *vide* their order dated 14.02.92 in O.A. 563/86 between Anil Kumar Mathur *vs.* Union of India, a scheme for regularization of casual artists in Doordarshan was launched *vide* Office Memorandum dated 09.06.1992, which was further modified *vide* office memorandum dated 17.03.94 and 05.07.94. All the Casual Artists who were employed on casual basis on 31.12.1991, including those who were on the rolls of the Doordarshan, though they may not be in services at that time were eligible for consideration. In this regard the workman's case is that the management regularized other juniors, sparing him in spite of the fact that he fulfilled the eligibility criteria of the scheme; and in rebuttal the management witness has stated that the Hon'ble Supreme Court *vide* order dated 20.03.2002 in Civil Appeal No. 1122-1136 directed the management to decide the cases of the casual artists in accordance with the regularization scheme dated 09.06.92 and thereafter modified scheme *vide* dated 17.03.94 and 05.07.94. The workman was a party in the said SLP; and accordingly, his case was taken up by the management in terms of scheme dated 09.06.92; but he was not found eligible for regularization even after giving him age relaxation.

12. The workman has relied on order of Hon'ble Supreme Court in Civil Appeal No. 1122-1136 of 1999 between Union of India & others *vs.* Rakesh Kumar Kukreti & others; wherein Hon'ble Apex Court has observed that the question is raised in the appeals are squarely covered by a decision of the Court in *Director, Doordarshan Kendra, Trivandrum and others vs. S. Kuttan Pillai and others (1998) 8 SCC 736*. Hon'ble Apex Court in Kuttan Pillai case, while deciding the case, where norms for relaxation of age for the purpose of regularization and for the purpose of recruitment were different in respect of respondent Floor Assistants engaged on casual basis in the Doordarshan Kendra, Trivandrum seeking regularization, held that the relaxation in age could be granted to the respondents only in accordance with the scheme notified by the OM dated 09.06.1992 as modified by OMs dated 17.03.1994 and 05.07.1004.

13. Thus, the point for consideration is whether the workman was eligible for regularization in terms of the regularization scheme dated 09.06.92 and thereafter modified *vide* dated 17.03.94 and 05.07.94. For apt appreciation of the case of the workman regularization on merit it would be necessary to quote the salient features of the relevant regularization schemes dated 09.06.92, 17.03.94 and 05.07.94.

"No. 1516/2(3)

Dated: 09.06.1992

Office Memorandum

Subject: Scheme for Regularization of Casual Artists in Doordarshan.

Annexure to the above OM.

Scheme for regularization of casual erstwhile staff Artists in Doordarshan as per the judgement in OA No. 563/86, dated 14.2.1992 in M/s Anil Kumar Mathur *vs.* UoI case.

1. This scheme would be applicable to all those Casual Artists who were employed on Casual basis on 31.12.1991 including those who were on the rolls of the Doordarshan, though they may not be in services now will be eligible for consideration. Those who are engaged on casual basis after 31.12.1991 will not be eligible for consideration.
2. Only those Casual who had been engaged for an aggregate period of 120 days in a year (calendar year) will be eligible for regularization. The broken period in between the engagement and disengagement will be ignored for the purpose. The number of days is to be computed on the basis of actual working days in the muster rolls or attendance sheets or Q-sheets.
3. Separate eligibility panels will be prepared for each category of posts, Kendra-wise, depending upon the length of service of Casual Artists. They will be considered for regularization in the order of their seniority against the available vacancies in that particular Kendra. The seniority will be determined from the date of their initial engagement by the Kendra.
4. The persons who are in the eligibility panel of one Kendra will have no right for claiming regularization in another Kendra as these are generally Group 'C' posts and selection is made Kendra-wise.
5. The Casual Artists who are to be regularized should possess the requisite educational qualification and/or experience as stipulated in the Recruitment Rules of other administrative instructions (in the absence of Recruitment Rules) existing for the post when the casual worker was initially engaged.
6. The upper age limit would be relaxed to that extent of service rendered by the Casual Artists at the time of regularization. A minimum of 120 days service in the aggregate, in one year, shall be treated as one year's service rendered for this purpose. The service rendered for less than 120 days in a year will not qualify for age relaxation.
7. The regularization of Casual Artists would be from prospective date and the Casual Artists on the eligibility panel who fail to qualify for regularization in accordance with the recruitment rules and instructions issued there under for the post shall be removed from the panel.
8. If a Casual Artist on an eligibility panel commits a misconduct and the same is.....would not be eligible for regularization.

9. Till all the Casual Artists.....no panel of eligible Casual Artists."

"No. 2(J)/ S.1

Dated: 17.03.1994

Office Memorandum

Sub: Scheme for regularization of Casual Artists in Doordarshan

The undersigned is directed to invite attention to DG:D O.M. of even number dated 09.06.92 on the above subject, with which a copy of the scheme for regularization of Casual Artists of Doordarshan was circulated. Accordings to condition in para 2 of the scheme, the number of days for the purpose of regularization is to be computed on the basis of actual working days in the Muster Rolls or Attendance Sheets or 'Q' sheets.

2. It has been brought to the notice of this Directorate that although these Casual Staff Artists were engaged for 10 days or have been working on 2-3 assignments in a months on a consolidated amount of Rs. 400-500 per assignment, but in actual practice, they have been working throughout the month. This aspect has been examined by the Directorate in consultation with Ministry of I&B and procedure to be followed for arriving at the number of days of casual working will be as under.
3. The number of days for the purpose of regularization will be computed on the basis of actual wages given to the prevalent in the State during the relevant time of working. For example, if a Casual Staff Artist has been paid an aggregate sum of Rs. 1500 in a month whether for working for 10 days or for 2-3 assignments in a month and the minimum wage prevalent in the State at the relevant time was Rs. 50, the staff artists would be deemed to have worked for 30 days in a month (*i.e.* Rs. 1500 divided by 50) subject to the condition that the days so computed would not exceed 25 days in a month.
4. It has also been noticed that certain staff artists were engaged initially when they were over-age according to the Recruitment Rules. All such cases, with the number of days they worked on casual basis according to the formula laid down in Para 3, should be referred to the Directorate for taking a decision on merit."

No. 4(1)/94-S.I.

Dated: 05.07.94

Office Memorandum

Subject: Regularization of Casual Artist as per revised scheme dtd. 13.-.94

The attention of all Doordarshan Kendras is invited to this Directorate's Memo No. 2(3)/86-S.I., dated 17.03.1994, copy enclosed, on the above subject. Various Doordarshan

Kendras have sought certain clarifications on a number of points in regard to revised scheme, these points are clarified as under:-

- (a) Kendras are competent to prepare the eligibility list of Casual Artist in accordance with para 3 of the Revised Scheme and regularise them against available Vacancies in their respective category on the basis of seniority.
- (b)
- (c) The cruical date for the purpose of calculation of age is the same as in 1992 Scheme, *i.e.* 09.06.92 and there is no change in it.
- (d) For the purpose of the age relaxation, the number of days engagement should be taken into account up to 09.06.92. The peroid of engagement, if any, beyond 09.06.92 in the year 1992 should not be counted for the purpose of age relaxation
- (e) Casual Artist who have worked for 120 days in any calendar year as per revised scheme too up to the period ending on 31st December, 1991 should be considered for regularization. The casuals who have completed 120 days after 31.12.1991 are not currently counted for regularization.
- (f)
- (g)
- (h) The rates of wages prevalent by the state Government from time to time by the way of minimum wage Act in which Kendra concerned falls, are to be taken for calculation of number of days of Casual Artists of that Kendra. The total amount paid to an individual Casual Artist during the month are to be divided by per day rate of payment of minimum wage for the calculation of number of days in a month. The classification in the differnece scales of pay/fee in Group 'C' and 'D' etc. is not required. The Maximum numbers of days so calculated should be restricted to 25 days in a month.
- (i)
- (j) Where the minimum wage Act prior to 01.05.1989 are not prescibed and available, the computation of number of days should be done by the following formula:—

Total amount paid during the month/30= Amount for one day.

The maximum number of days so arrived at should be restricted to 25 days in a month only."

A bare persual of the above office memorandum shows that the benefit of the regularization scheme dated 09.06.92 was available to those casual artists who were employed

on casual basis as on 31.12.1991 and were engaged for an aggregate period of 120 days in a calendar year. Also, the casual artists should have been in possession of requisite education qualification and experience. Also, they should have been within the upper age limit, which was relaxable to the extent of services rendered by the casual Artists at the time of relaxation *i.e.* on 31.12.1991. However, the modifications to the scheme dated 09.06.92 were issued *vide* scheme dated 17.03.94 and 05.07.1994; but the crucial date for eligibility and for the purpose of calculation of age and age relaxation etc. remained same as that in the scheme dated 09.06.92

14. Now, entering into the merit of the case, the matter has to be examined as to whether the workman was eligible for regularization within the terms and conditions of the above quoted schemes. In this regard the case of the workman is that he was engaged on 14.12.1984 as Casual Floor Assistant, when he was well within the age as prescribed in the Rules. He has filed photocopy of his matriculation certificate wherein his date of birth is mentioned as 03.09.1956. He has also filed photocopy of advertisement seeking application for the post of Production Assistant; wherein the prescribed age limit for the post has been mentioned as 21-30 years. Therefore, it comes out that when the workman was engaged initially he was well within the prescribed age for the post; but when the scheme for regularization dated 09.06.92 came into force he had become over-age on the crucial date of eligibility *i.e.* on 31.12.92; then he was approximately of 35 years 03 month and 28 days' age. Moreover, it is the case of the management that the case of the workman was considered within the terms of scheme dated 09.06.92, 17.03.94 and 05.07.94; but he could not get the benefit of regularization being overage. In this connection, it is pertinent to mention here that as per age relaxation clause provided in the scheme, a casual artist can get age relaxation with respect to the upper age limit, to the extent of services rendered by him at the time of regularization. As per scheme, for upper age relaxation a minimum of 120 days service in the aggregate, in one year, was required to be treated as one year's service rendered for this purpose, service rendered for less than 120 days in a year were not be considered for age relaxation. The workman has alleged that the management did not give any weightage for the services rendered by him for considering age relaxation, which resulted into his disqualification for the regularization. In this respect, the management of the Doordarshan in its evidence has stated that the workman was provided age relaxation of two years even then he could not qualify the terms of regularization being over-age.

15. The workman has pleaded that he was within the age limit when initially engaged, but got over age during his engagement. He has further pleaded that had he been given age relaxation, he would have come within the ambit of the regularization scheme. This pleading of the workman

has been denied by the management through pleadings as well as in its evidence with specific statement that the workman was given age relaxation since he had completed 260 days in the year 1985; even then he failed to qualify for regularization as per regularization schemes. As per settlement law, the initial burden was on the workman to prove before this Tribunal that he was eligible for age relaxation and for this he was required to prove, through cogent evidence, that he actually worked for 120 days in aggregate in a calendar year for seeking age relaxation in order to come within the purview of terms of regularization scheme.

In this regard it is noteworthy to mention that from the advertisement of the post it is clear that the prescribed upper age limit for the post is 30 years and as per matriculation certificate, filed by the workman, his date of birth is 03.09.1956, which goes to show that his age on the cutoff date as per regularization scheme *i.e.* 31.12.1991 was 35 years 03 month and 28 days. Therefore, it is apparent that the workman was over-age by 05 years 03 month and 28 days only. Also, as per pleadings and statement of the management witness, the workman was permitted only one year's age relaxation as he worked for 25 days in 1984 and for 260 days in the years 1985.

16. For calculating 120 days working a formula has been enumerated in the scheme dated 17.03.1994 *vide* para 03 as under:

"3. The number of days for the purpose of regularization will be computed on the basis of actual wages given to the prevalent in the State during the relevant time of working. For example, if a Casual Staff Artist has been paid an aggregate sum of Rs. 1500 in a month whether for working for 10 days or for 2-3 assignments in a month and the minimum wage prevalent in the State at the relevant time was Rs. 50, the staff artists would be deemed to have worked for 30 days in a month (*i.e.* Rs. 1500 divided by 50) subject to the condition that the days so computed would not exceed 25 days in a month.

The above method of calculating the working days is based on the monthly payment made to a casual artist divided by minimum wages prevalent in the State at the relevant time. Admittedly, the workman worked with the management, intermittently; but the workman has not given any details of his working. However, he has given details of payment received by him *vide* paper No. C-9, which reflects the payment received by him from the management since his initial date of engagement *i.e.* from 14.12.1984 to 20.07.2001; as under:

Year	Amount paid	Remarks
14.12.1984	Rs. 414/-	25 days admitted by the employer No. 2
1985	Rs. 5149/-	260 days admitted by the employer No. 2

Year	Amount paid	Remarks
1996	Rs. 8750/-	No comments by the employer No. 2
1997	Rs. 3500/-	-"
1998	Rs. 22,000/-	-"
1999	Rs. 24,000/-	-"
2000	Rs. 34,200/-	-"
20.07.2001	Rs. 19,950/-	-"

Per contra, management has pleaded in para 07 of its written statement that the services of the workman were obtained in different spells as per details given hereunder:

Year	No. of days worked
1984	25
1985	260 days

From perusal of the above working details given by the management, it comes out that the management has granted one year's age relaxation in terms of scheme for regularization. The above working details given by the management matches the payment/working details provided by the workman *vide* paper No. C-9; wherein he has stated that he worked for 25 days in 1984 and 260 days in 1985. Moreover, he has also given details of payment in successive years *i.e.* from 1996 to 20.07.2001 (alleged date of termination). Here it is pertinent to mention that the terms of regularization scheme dated 09.06.1992 *vide* para 01 provides that the scheme shall cover only those artists who were on the rolls of Doordarshan, though they may not be in service then will be eligible for consideration. It was specifically mentioned therein that those who are engaged on casual basis after 31.12.1991 will not be eligible for consideration. The relevant para is reproduced as under:

1. This scheme would be applicable to all those Casual Artists who were employed on Casual basis on 31.12.1991 including those who were on the rolls of the Doordarshan, though they may not be in services now will be eligible for consideration. Those who are engaged on casual basis after 31.12.1991 will not be eligible for consideration.

Moreover, the provisions of age relaxation were further clarified *vide* scheme dated 05.07.1994 which provided that any working/period of engagement after 09.06.1992 should not be counted for the purpose of age relaxation. The above provision *vide* scheme dated 05.07.1994 is as under:

d) For the purpose of age relaxation, the number of days engagement should be taken into account up to 09.06.92. The period of engagement, if any, beyond 09.06.92 in the year 1992 should not be counted for the purpose of age relaxation.

Hence, it is crystal clear that for considering the working for seeking age relaxation under regularization scheme, the working up to 09.06.1992 was relevant and rest working, if any, was of no use. It is clear that the workman worked for only two year *i.e.* in the year 1984 and 1985 in the relevant period. Thus, from the pleadings and evidence relied on by the parties it is apparent that the management rightly did not considered the working of the workman in the years from 1996 to 20.07.2001, as claimed by him. It is also established that the management was just in giving one year's age relaxation to the workman on the basis of his working with the Doordarshan and its action in not regularizaing the services of the workman in terms of regularization schemes dated 09.06.1992 and the modified schemes dated 17.03.1994 and 05.07.1994 being over-age does not appears to be illegal.

17. As regard termination of the workman on 20.07.2001, the management has pleaded that the workman was never appointed by the opposite party; rather he was engaged for short spells on casual basis as and when required by it. This fact is admitted by the workman in pleadings as well as in his evidence. Moreover, the workman himself has filed offer letters which goes to show that he was engaged by the management for specified time, therefore, disengagement on completion of task does not amounts to termination of services.

18. The workman pleaded that the management has terminated his services without complying with the provisions of Section 25F of the Act. In this regard the burden lies upon the workman to prove that he has worked for 240 days in preceding one years from the date of alleged termination as per provision of the Act and as per law laid down in 2005 (107 FLR 1145 (SC) Surenderanagar Panchayat and another v. Jethabhai Pitamberbhai; wherein Hon'ble Apex Court came to the conclusion that where the workman failed to prove that he had been in employment with the employer for a period of 240 days uninterruptedly, he is not entitled to the protection, in of section 25-F of the Industrial Disputes Act, 1947. It was held by the Hon'ble Supreme Court that the scope of the enquiry before the Labour Court was confined only to 12 months preceding the date of termination to decide the question of the continuous service for the purpose of section 25-F of the Industrial Disputes Act, 1947. Further, Hon'ble Apex Court has observed as under:

"The claimant, apart his oral evidence has not produced any proof in the form of receipt of salary or wages for 240 days or record of his appointment or engagement for that year to show that he has worked with the employer for 240 days to get the benefit under Section 25-F of the Industrial Disputes Act. It is now well settled that it is for the claimant to lead evidence to show that he in fact worked for 240 days in a year preceding his termination."

Therefore, in view of the above referred case law, in order to take any relief for non-compliance of mandatory

provisions contained in section 25-F of the Act, it is necessary for the claimant to lead evidence to the effect that he was actually in employment of the opposite party for 240 days in the year preceding his termination and he was actually paid for it. In the instant case although there is pleading that provisions of Section 25 F of the Act, have not been complied with, there is no piece of evidence to show that the workman worked for 240 days continuously in the twelve preceding months from the date of his alleged termination with the management of Doordarshan. It is pertinent to mention here that the workman has failed to substantiate this fact that he worked for 240 days in a year preceding the date of termination.

19. Thus, in view of the facts and circumstances of the case and the case laws laid down by the Hon'ble Apex Court, I am of considered opinion that the workman's claim for regularization in the services of the Doordarshan not sustainable in the eye of law being beyond the ambit of regularization schemes dated 09.06.1992 and the modified schemes dated 17.03.1994 and 05.07.1994. Accordingly, the reference is adjudicated against the workman, Akhilesh Kumar Saxena; as such he is not entitled for any relief.

20. Award as above.

Lucknow,
07 May, 2014

Dr. MANJU NIGAM, Presiding Officer

नई दिल्ली, 23 जून, 2015

का.आ. 1300.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कंबोडिया मिल्स, कोइम्बटोर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय चेन्नई के पंचाट (संदर्भ सं० 1/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.06.2015 को प्राप्त हुआ था।

[सं० एल-42011/108/2014-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 23rd June, 2015

S.O. 1300.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 1/2015) of the Central Government Industrial Tribunal Cum Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Cambodia Mills, Coimbatore and their workmen, which was received by the Central Government on 16.06.2015

[No.L-42011/108/2014-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 10th June, 2015

Present :

K. P. Prasanna Kumari, Presiding Officer

Industrial Dispute No. 1/2015

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Cambodia Mills and their workman]

BETWEEN

The General Secretary: 1st Party/Petitioner Union
Coimbatore and Periyar District Dravida
Panchalai Thozhilalar Munnetra Sangam
Coimbatore

AND

The General Manager: 2nd Party/Respondent
Cambodia Mills, Trichy Road
Ondipudur
Coimbatore-641016

Appearance:

For the 1st Party/Petitioner: M/s K. Venkatapathy,
G. Desingu,
Advocates

For the 2nd Party/Respondent : Sri T. Jeeva,
Authorized
Representative

AWARD

The Central Government, Ministry of Labour and Employment, vide its Order No. L-42011/108/2014-IR(DU) dated 22.12.2014 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether denial of employment from 09.12.2013 to 06.01.2014 in respect of Sri Shekar, Ticket No. 06-9354 after transfer by the Management of Cambodia Mills, Coimbatore is justifiable or not? If not, to what relief the workman is entitled to?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 1/2015 and issued notices to both sides. Both sides have entered appearance through their counsel and have filed Claim and Counter Statement respectively.

3. The petitioner and the Respondent have filed joint memo in which it is stated that the Respondent had conceded to the demand of the petitioner and so the claim petition can be disposed as settled out of Court.

4. It is clear from the joint memo that the petitioner has already received the relief he has claimed, as conceded by the Respondent.

5. In the circumstance, the reference is answered against the petitioner. An award is passed accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner Union : None

For the 2nd Party/Management : None

Documents Marked:

On the petitioner's side

Ex. No.	Date	Description
	Nil	

On the Management Side

Ex. No.	Date	Description
	Nil	

नई दिल्ली, 25 जून, 2015

का.आ. 1301.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आर्कियोलॉजिकल सर्वे ऑफ इंडिया, राजस्थान के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय जयपुर के पंचाट (संदर्भ सं० 45/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 24.06.2015 को प्राप्त हुआ था।

[सं एल-42012/24/2007-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 25th June, 2015

S.O. 1301.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 45/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Archaeological Survey of India, Rajasthan and their workmen, which was received by the Central Government on 24.06.2015

[No. L-42012/24/2007-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, JAIPUR

Bharat Pandey,
Presiding Officer

I.D. 45/2007

Reference No. L-42012/24/2007-IR(DU) dated: 23.07.2007

Sh. Wahid Mohammed
S/o Shri Haneef Mohammed
R/o Kachhi Basti, Rajbagh,
Sawai Madhopur (Rajasthan)

V/s

The Regional Officer
Archaeological Survey of India
Ranthambhor Durg,
Sawai Madhopur (Rajasthan)

For the Applicant : Sh. M.F. Beig, Advocate.

For the Non-applicant : Sh. T.P. Sharma, Advocate.

AWARD

18.05.2015

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-section 1 and 2(A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following Industrial Dispute to this tribunal for adjudication:—

"Whether the action of the management of Archaeological Survey of India, in terminating the services of their workman Shri Wahid Mohammed, w.e.f. 30.08.2006, without following the provisions of Sections 25F, 25G and 25H of the Industrial Dispute Act, 1947 is legal and justified? If not, to what relief the workman is entitled to?"

2. The fact of the case in brief is that the applicant workman was appointed as daily wager on 08.06.2003. He was discharging his duty since appointment honestly and there was no complaint by opposite party against his work. Whatever work was assigned to the applicant he completed that work to best of his ability. Applicant was never served with any notice and no charge was ever proved against him.

3. He was appointed on daily wage but his period of appointment was not fixed. The work for which he was appointed by opposite party is still existing and the nature of work is permanent. The applicant is 'workman' and the opposite party is 'employer' according to the definition of 'workman' and 'employer' provided in Industrial Disputes Act, 1947. The applicant had worked for more than 240 days in a calendar year immediately preceding the date of termination and his services were terminated on 30.08.2006

without giving any notice or any payment in lieu of notice or retrenchment compensation in violation of section 25-F of Industrial Disputes Act, 1947. His termination is unfair labour practice and victimisation adopted by opposite party.

4. Before the termination of the workman seniority list was neither prepared nor published by the opposite party which is violation of Rule 77 of Industrial Disputes Rules, 1958. At the time of termination of the service workmen junior to the applicant were retained in service by the opposite party in violation of section 25-G of Industrial Disputes Act, 1947. The opposite party has made new appointment after termination of the services of the applicant workman but no priority was given to the applicant which is violation of section 25-H of Industrial Disputes Act, 1947 & Rule 78 of Industrial Dispute Rule, 1958. It has been further alleged by the applicant that applicant requested the opposite party to take the applicant in his employment but he was not taken back & due to non-cooperation of opposite party conciliation also filed before the Conciliation Officer. The opposite party has accepted before the Conciliation Officer that applicant was kept on work & work was taken from him, hence, the relation of employer & workman has not been denied by the opposite party but to escape from the liability of illegal termination it has been denied that opposite party is 'Industry' within the meaning of definition provided in Industrial Disputes Act, 1947. The true position is that according to the activities & work the opposite party is an 'Industry' according to the definition of industry provided under Industrial Disputes Act, 1947. The provisions of Industrial Disputes Act, 1947 have not been followed by opposite party, hence, the termination of the services of the workman is illegal & unfair.

5. It has been further alleged that allegation of the opposite party before the Conciliation Officer is that the applicant workman was absent from duty from 15.3.2006 to 8.6.2006 but workman was not given any show cause notice. Neither any charge sheet was served upon him regarding absence from place of duty nor any charge was proved. The applicant had made his stand clear before the management that he has not remained absent during above said period & instead of absence he has been working in that period. The applicant had completed more than two years of service & he was demanding from the opposite party to declare him semi permanent employee. As a result of above demand of the applicant the opposite party instead of making him semi permanent terminated the services of the applicant. The applicant is jobless since the date of termination. It is therefore, requested that termination order dated 30.8.2006 be declared illegal & applicant reinstated with all pay & emoluments along with continuity in service.

6. In reply statement in para 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 & 20 of the statement of claim have been specifically denied. In additional reply it has

been alleged in para 2 that the applicant labourer was not appointed by the opposite party & he was engaged as casual labourer for carrying out casual work on the basis of part time contract & such engagement was coming to end immediately after completion of the work. It has also been alleged that the applicant labourer has never completed 240 days in any year & applicant is under an obligation to prove this fact by document. Statement of para 5 of statement of claim has been said to be baseless & nature of the work for which applicant was engaged is alleged to be casual. Against para 7 it has been alleged that to succeed in his sinister design applicant has fabricated the statement.

7. It has been alleged against para 8 of the statement of claim that applicant was called for a fixed works & his services were coming to end after completion of the work. Relation between applicant & opposite party as workman & employer has been specifically denied against para 9 of the statement of claim & has been alleged that since he was never appointed the question of such relationship does not arise. The applicant does not fall within the definition of workman & the department of the opposite party does not fall within the definition of Industry. Applicant was never engaged permanently & he was called only when there was work. He was neither appointed on any post after following the rules of appointment nor any appointment letter was issued to him, therefore, question of termination of his services does not arise. It has been alleged in para 11 of reply that it is pertinent to note that applicant was not removed from the institution of opposite party & the fact that the work was over hence, his services automatically came to an end. It was not necessary to give notice to the applicant because such notice is issued only to such workman who permanently work for a period of more than 240 days & the department is not satisfied with work of such workman, in that event such workman may be removed after serving one months notice. In case of applicant after completion of work he himself had gone elsewhere.

8. Against para 13 of statment of claim it has been alleged that workmen like applicant are not given any appointment letter neither they are deemed regular workmen of the department. Workman like applicant are engaged on daily wage basis according to need of a particular work for its execution & they are removed after completion of work or at the end of financial year or on other technical ground on suspension or stoppage of work. Against para 14 of statement of claim it has been alleged that nature of the new recruitment by the department whose nature is permanent is done by following the legal procedure & selection is made out of person who possess the prescribed eligibility. Applicant was not appointed on any vacant post udnr grade 'D'. At the time of engaging the applicant workman he was briefed orally that he is engaged against a specific work & nature of the work is purely temporary &

casual in which applicant is not entitled to derive benefit of provisions of Industrial Disputes Act. The allegation of the applicant is wrong that he was removed out of animosity. In absence of casual work the services of the workman automatically comes to an end. In last paragraph of the reply it has been prayed that order of dismissal be passed against the statement of claim.

9. In rejoinder dated 3.6.2010 filed by applicant, statement of claim has been reiterated & statement of reply submitted by the opposite party has been alleged to be wrong.

10. In preliminary objection against statement of claim filed by opposite party it has been alleged that applicant was neither given any appointment nor there was any sanctioned or vacant post. Department of opposite party is not covered within the definition of industry as provided in section 2(j) of Industrial Disputes Act. In B-40/97, Gobardhan Lal Meena vs. Archaeological Survey of India, it has been held by the Hon'ble Tribunal in its award dated 18.1.2001 that Archaeological Survey of India is not covered within the definition of industry. Industrial Tribunal, Jabalpur in its award dated 9.6.2003 has held that Archaeological Survey of India is not an 'Industry' within the meaning of section 2(j) of Industrial Disputes Act. It has also been alleged that the applicant was engaged for completion of casual work for fixed period of time & he has not worked for 240 days in any of the year, hence, he is not entitled to the benefit of Industrial Dispute Act. It has also been alleged that the applicant left the work on his own even before the completion of the work, hence, he is not entitled to any relief.

11. Against preliminary objection it has been alleged by the applicant that preliminary objections are not tenable at belated stage. It has also been alleged that various precedents it has been alleged that preliminary objections are to be decided along with other issues on merits. It has also been alleged that preliminary objections are evidence based, hence, opposite party be directed to file the reply to the statement of claim.

12. Under mentioned issues were framed on 27.7.2011 by the then learned Presiding Officer of the Tribunal, based on pleadings of both the parties:—

- (1) Whether the workman had worked for more than 240 days as daily wager during period 8.6.03 to 30.8.06 preceding twelve months from the date of his alleged termination & whose service was terminated in violation of section 25-F of the Act?
- (2) At the time of terminating the service of the workman the juniors person to him were retained by the management in contravention of section 25-G of the I.D. Act?
- (3) Whether subsequent to the termination of the workman fresh hands were engaged by the non-

applicant management in violation of section 25-H of the I.D. Act.

- (4) Whether non-applicant establishment is in 'industry' within the meaning of section 2-J of the I.D. Act.

13. Applicant has filed document W-1 which is reply of opposite party before conciliation proceeding, affidavit of the applicant in evidence and statement of number of working days in calendar year 2003, 2004, 2005 & 2006. Applicant has been cross examined by opposite party on his affidavit.

14. In documentary evidence, opposite party has filed statement of payment made to applicant & other workmen which is 29 page. This document has been filed on direction of tribunal given on application of the applicant. Opposite party has filed affidavit of Sh. Brijraj Singh in evidence. Sh. Brijraj Singh has been cross examined on 28.10.14 by applicant side.

15. I have heard the argument of learned counsel for both the parties & perused the file. Written argument have been filed by both the parties which is on record.

16. Following citations have been referred on behalf of applicant:—

- (i) 1976 LLJ, Supreme Court 478, State Bank of India... Appellant Vs. N. Sundaramoney.... Respondent.
- (ii) Judgement & order dated 21.2.1978 in civil appeal No. 753-754(T) of 1975, Bangalore Water Supply & Sewerage Board etc. etc. Vs. A/ Rajappa & others etc. etc.
- (iii) 1983 LAB I.C. 1629 (Supreme Court), D.P. Maheshwari ... Appellant Vs. Delhi Administration & others... Respondent.
- (iv) Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No. 78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi Vs. The Director General, Archaeological Survey of India, Janpath, New Delhi.
- (v) RLR 1991(2), Jaipur Bench, Oriental Bank of Commerce... Appellant Vs. Presiding Officer, Central Govt. Industrial Tribunal & others (23).
- (vi) RLR 1991(2), Jaipur Bench, Surya Prakash Sharma, Petitioner Vs. Rajasthan Text Book Board, Jaipur & other (122)....Respondent.
- (vii) Award dated 17.11.2008 passed by Industrial Tribunal-Cum-Labour Court, Kanpur, in Industrial Dispute No. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra Vs. Suresh Chandra.

17. Following citations have been referred on behalf of opposite party:—

- i. Award dated 26.11.1986 passed by Central Administrative Tribunal, Ahmedabad in O.A. No. 33/86, Govind Kanji Parmar & others... Petitioner Vs. Union of India & others.... Respondent.
- ii. Award dated 30.10.1996 passed by Central Administrative Tribunal, Jodhpur Bench, Jodhpur in O.A. No. 331 to 334/1993, Devi Singh & others... petitioner Vs. Union of India & others... Respondent.
- iii. Award dated 18.1.2001 passed by Central Government Industrial Tribunal-Cum-Labour Court, Jaipur in CGIT case No. B-40/97 in Goverdhan Lal Meena Vs. Director (Science), Archaeological Survey of India, Science Branch, Dehradun.

18. It has been argued by the learned counsel for the applicant that applicant has completed continuous 240 days of service in every year but he has removed from service by opposite party in violation of section 25-F, 25G & 25-H of the Industrial Disputes Act, 1947. It has also been argued that contention of the opposite party is against the law that Archaeological Survey of India is not an 'Industry' within the meaning of section 2(j) of the Act. Against this it has been argued by learned counsel for the opposite party that Archaeological Survey of India is not an 'Industry' & there is not violation of section 25-F, G & H of the Act, It has also been argued that applicant was neither appointed nor any appointment letter was issued. There was no advertisement for recruitment. It has also been argued that applicant was engaged on part time contract for casual work of repair and soon after completion of the work engagement of the applicant was over. It has been alleged that his engagement was on daily wage and as the work of repair of the wall was of temporary character hence, on account of end of job and none availability of further job the applicant himself had left the place of job. It has been argued that whenever there is availability of work, workmen are engaged on daily wage basis for the job. Reference has been made by both the parties towards precedents submitted by them in favour of their respective claim.

19. Before issue no. 1 is decided it appears desirable to take up issues 2,3, and 4 for decision because decision of these issues are important & having relevance in decision of issue no. 1.

Issue no. 2

20. This issue relates to violation of section 25-G of Industrial Disputes Act, 1947 in terminating the services of applicant. Section 25-G of Industrial Disputes Act, 1947 reads as under:—

"Section 25-G. Procedure for retrenchment.—Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a

particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman."

21. From perusal of the provision contained in section 25-G, it appears that whenever in ordinary course of business a workman is required to be retrenched then the last person employed by the employer shall be retrenched first unless there is special reason for retrenchment of a person other than the last employed person. From perusal of statement of claim it is evident that in para 13 it has been alleged that there has been violation of section 25-G of Industrial Disputes Act, 1947 in terminating the services of the applicant and junior to the applicant was retained in service at the time of removal but no one has been named in statement of claim that who is the person junior to the applicant who was retained. In the affidavit also filed by applicant as evidence there is no mention of a person junior to him who was retained in the service at the time of his removal. In the cross examination of the applicant on page 2 this question has been placed before him and he has alleged that when he was removed at that time all other workmen were also removed. This statement of the applicant during cross examination obviously indicates that no one junior to him was retained & removal of all the workman together is also indicative of the fact of Cessation or completion of a particular work for which they are engaged. Here, it is also pertinent to note that it has been repeatedly argued by learned counsel for opposite party that in fact there has been no appointment, therefore, the question of removal of the applicant from employment does not arise. From the perusal of the cross examination of Sh. Brijraj Singh, Deputy Superintendent (Archaeology) it is clear that no assistance can be taken on this point from his cross examination. Bases on above discussion, it is clear that the applicant has failed to prove that at the time of termination of the service of applicant workman, juniors to him were retained by the management in contravention of section 25-G of the I.D. Act. Issue no. 2 is accordingly decided in negative against the applicant.

Issue No. 3

22. This issue is to the effect that whether subsequent to the termination of the workman fresh workmen were engaged by the non-applicant management in violation of section 25-H of the I.D. Act. For convenience provision of Section 25-H is reproduced below which reads as under:—

"Sec. 25-H. Re-employment of retrenched workmen—

Where any workmen are retrenched, and the employer purposes to take into his employ any persons he shall, in such manner as may be prescribed, give an opportunity to the retrenched workmen who are citizens of India to

offer themselves for re-employment, and such retrenched workmen, who offer themselves for re-employment shall have preference over other persons.

23. The above mentioned section 25-H provides that a retrench employee shall have preference in appointment over rest, if management, intends to employ a workman & the management is under an obligation to give opportunity to retrench workman so that he can offer himself for employment. If opportunity is not given by management it will amount to violation of section 25-H of I.D. Act. Para 14 of statement of claim indicates that after termination of the services of applicant new appointments were made without preference given to applicant. In reply to para 14 of statement of claim non-applicant has denied the appointment. There is no documentary evidence on record about new appointment. Para 6 of affidavit of applicant filed in evidence indicates that new appointments were made with no preference to applicant but in cross-examination applicant has admitted that in his affidavit he has not given any statement that after his removal who was appointed & what was the place of appointment. The applicant has also admitted that in statement of claim also he has not given detail of newly appointed persons. He has also admitted that he had not submitted any written application for re-employment with the management. In para 11 of affidavit of Sh. Brijraj Singh witness for opposite party violation of section 25-G & H has been specifically denied. In cross-examination of Sh. Brijraj Singh there is nothing significant to draw an inference about violation of section 25-H of I.D. Act. Based on above discussion & appreciation of evidence adduced by the parties I am of the view that the applicant has failed to prove the violation of section 25-H of the I.D. Act regarding appointment of fresh hands subsequent to termination of his service. Issue No. 3 is accordingly decided against the applicant.

Issue no.4

24. This issue is to the effect that whether establishment of the non-applicant Archaeological Survey of India is an Industry within the meaning of section 2(j) of the I.D. Act. A preliminary objection has been raised by non-applicant that establishment of the non-applicant is not covered under definition of 'Industry' as indicated in section 2(j) of the I.D. Act. Reliance has been placed by non-applicant on Award dated 18.1.2001 passed by Central Government Industrial Tribunal-cum-Labour Court, Jaipur in CGIT case No. B-40/97 in Goverdhan Lal Meena v/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun. Against this, it has been argued by learned counsel for the applicant that establishment of non-applicant is covered by the definition of 'Industry'. Reliance has been placed by non-applicant on Judgement & order dated 21.2.1978 in civil appeal No. 753-754(T) of 1975, Bangalore Water Supply & Sewerage Board etc. etc v/s A. Rajappa & others etc. etc., Award dated 21.10.1988 passed

by Industrial Tribunal, Delhi in I.D. No.78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi v/s The Director General, Archaeological Survey of India, Janpath, New Delhi & Award dated 17.11.2008 passed by Industrial Tribunal-cum-Labour Court, Kanpur, in Industrial Dispute No. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s Suresh Chandra. I have very carefully gone through cases cited by both the parties. Judgement dated 9.6.03 by CGIT, Jabalpur has not been filed by opposite party.

25. In Award dated 18.1.2001 passed by Central Government Industrial Tribunal-cum-Labour Court, Jaipur in CGIT case No. B-40/97 in Goverdhan Lal Meena v/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun, cited by learned counsel for the opposite party it has been held in decision of issue No. 4 that provision of I.D. Act, 1947 apply to the case. Issue No.4 has dealt with that fact that provisions of I.D. Act apply to the opposite party or not. Cases cited by learned counsel for the applicant indicate that Archaeological Survey of India is covered within the definition of 'Industry' as provided in section 2(j) of the I.D. Act. In Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No. 78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi v/s The Director General, Archaeological Survey of India, Janpath, New Delhi, discussing the case of Judgement & order dated 21.2.1978 in civil appeal No. 753-754(T) of 1975, Bangalore Water Supply & Sewerage Board etc. etc v/s A. Rajappa & others etc. etc., it has been held by the CGIT, Delhi that Archaeological Survey of India is an 'Industry'. In Award dated 17.11.2008 passed by Industrial Tribunal-cum-Labour Court, Kanpur, in Industrial Dispute No. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s Suresh Chandra, it has been held by CGIT, Kanpur that Archaeological Survey of India is an 'Industry'. From decision of the case cited on behalf of both the parties & from the fact & circumstances of the present case, I am of the view that establishment of non-applicant, Archaeological Survey of India is an 'Industry' within the meaning of section 2(J) of Industrial Disputes Act, 1947. Issue no. 4 is accordingly decided in affirmative against the non-applicant.

Issue No. 1

26. This issue is to the effect whether the workman had worked for more than 240 days as daily wager during period 8.6.03 to 30.8.06 preceding twelve months from the date of his alleged termination & whether his service was terminated in violation of section 25-F of the Act? It has been argued by learned counsel for the applicant & has also been alleged in the written argument that the applicant has worked for more than 240 days as daily wager during period of 12 months immediately preceding the date of

termination on 30.8.06 & termination of the services of applicant is in violation of section 25-F of Industrial Disputes Act, hence, the order of termination is fit to be aside with continuity in service along with back wages. Against this, it has been argued by the learned counsel for the opposite party & has also been alleged in the written argument that applicant was not appointed by non-applicant, no appointment letter was issued, there was no advertisement for any appointment. It has also been argued that applicant was engaged on daily wage basis for repair of the walls of the fort which is a work of temporary nature. It has also been argued that applicant voluntarily left the place of work on account of none availability of work. It has also been said that on availability of work engagement is made on daily wage basis for the period of work only & provision of section 25-F is not attracted in the case of applicant. It has also been alleged that in view of case of the applicant covered under section 2(o) (bb) of the I.D. Act, compliance of provision of section 25-F is not required.

27. According to statement of claim applicant was appointment on daily wage on 8.6.03 & was terminated on 30.8.06 without notice or pay in lieu of notice or retrenchment compensation in violation of section 25-F of I.D. Act. What was the post held by the applicant during employment has not been alleged in statement of claim. About the nature of the work the applicant has alleged that whatever work was assigned by the opposite party applicant was performing that work. It has also been alleged that his engagement was neither for a fix work nor for a fix period. The applicant has alleged that he has worked for more than 240 days in every year. In affidavit filed in evidence in support of above statement of claim the applicant has repeated the allegation of statement of claim. No other co-worker has been produced as witness in evidence to support the allegation of statement of claim. In written statement it has been specifically denied by opposite party that applicant has worked for more than 240 days in a year instead it has been alleged that applicant has not worked for 240 days in any of the year. Sh. Brijraj Singh has specifically denied in para 3 of his affidavit that the applicant has worked for 240 days in any of the year. In above fact & circumstances, the burden of proof lies on applicant to prove that he has worked for more than 240 days in a year immediately preceding the date of his termination on 30.8.06 as alleged in statement of claim. The applicant has alleged in his cross-examination that he has not stated in his affidavit in evidence or in statement of claim that for how many days he has worked in any corresponding year. He has also admitted that he has not filed any document which can indicate that for how many days he has worked from 2003 to 2006. He has also alleged in page 3 of cross-examination that he has not filed any document which indicates that for how many days he has

worked in the year from 2003 to 2006. He has admitted that he has filed document W-1 & in W-1 nature of work has been mentioned for which he was engaged & in W-1 it has also been mentioned that the nature of work includes 'special repair work' & such mention in W-1 is correct. The applicant has admitted that document W-2 has been filed by him in which the number of days of work in year 2006 is 83 & that is correct. Thus, it shall appear that two documents relating to total number of days of work has been filed by the applicant which is W-1 & W-2. W-2 is the document which appeared to be prepared by workman whereas W-1 is the document which appears to be reply submitted by management during conciliation proceedings. From document W-2 if taken into consideration for calculating the period of 240 days immediately preceding the date of termination on 30.08.06 then total number of days on which the workman has worked between 30.8.05 to 30.8.06 comes out to be 185 days. From document W-1 it comes out to be 231 days. Thus, workman has failed to prove that he has continuously worked for more than 240 days in the year immediately preceding the date of his termination. It shall also appear from both the documents W-1 & W-2 that there is no continuous work in the year.

28. Document regarding period & corresponding working days filed by management on order of the tribunal passed on application of the applicant provides following detail:—

Period of work	Number of working days.
19.2.2003 to 20.3.2003	28 days
13.4.2004 to 13.5.2004	26 days
9.6.2004 to 9.7.2004	26 days
13.9.2004 to 12.10.2004	26 days
14.10.2004 to 31.10.2004	17 days
19.3.2005 to 13.4.2005	24 days
14.5.2005 to 29.8.2005	NIL
30.8.2005 to 7.9.2005	NIL
8.9.2005 to 6.10.2005	27 days
9.11.2005 to 9.12.2005	28 days
11.1.2006 to 10.2.2006	29 days
12.2.2006 to 14.3.2006	29 days
9.6.2006 to 6.7.2006	25 days
Total number of days between	
30.8.2005 to 30.8.2006	138 days.

29. The above table submitted by opposite party regarding statement of work done by workman indicates

that from the date of termination on 30.8.06 applicant has worked only for 138 days in a year immediately preceding the date of termination on 30.8.06. Thus, it is evident that the workman has not worked continuously for 240 days immediately preceding the date of termination. From the above discussion it is clear that applicant has failed to prove that he has worked for more than 240 days immediately preceding the date of termination. From the entire cross-examination of Sh. Brijraj Singh there appears nothing to derive in favour of applicant that he has worked for more than 240 days in a year preceding the date of termination. From the above discussion it is clear that applicant has failed to prove that he has continuously worked for more than 240 days in a year immediately preceding the date of his termination.

30. As far as the question of violation of section 25-F of Industrial Dispute is concerned it has been argued by the learned counsel for the applicant that there has been violation of section 25-F in terminating the service of the applicant, against this learned counsel for the opposite party has argued that there is no violation of section 25-F of I.D. Act & section 25-F does not apply in the case of applicant who was neither employed nor terminated & his engagement has been only for specific period & specific work & he has left the workplace on his own accord. It has also been argued that as the question of terminating the services of the applicant does not arise, because he was not given any employment & there was no advertisement for employment, hence, section 25-F does not apply to the case of the applicant. Section 25-F reads as under:-

"25-F. Conditions precedent to retrenchment of workmen. No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until---

- (a) The workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;
- (b) the workman has been paid, at the time of retrenchment, compensation (which shall be equivalent to fifteen days' average pay for every completed year of continuous service) or any part thereof in excess of six months; and
- (c) notice in the prescribed manner is served on the appropriate Government (or such authority as may be specified by the appropriate Government by notification in the Official Gazette.)

31. Continuous service as indicated in section 25-F(1) has been defined in section 25-B (1) (ii) which reads as under:—

Section 25-B. Definition of continuous service. —For the purposes of this Chapter---

- (1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman.
- (2) where a workman is not in continuous service within the meaning of Clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer....
 - (a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than :
 - (i) one hundred and ninety days in the case of a workman employed below ground in a mine; and
 - (ii) two hundred and forty days, in any other case;

32. Section 2 (oo) provides meaning of retrenchment which reads as under:—

"2(oo)..... "retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include.....

- (a) Voluntary retrenchment of the workman; or
- (b) Retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or
- (bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or
- (c) termination of the service of a workman on the ground of continued ill-health;

33. In 2006 Supreme Court Cases (L&S) 38, Surendranagar District Panchayat Appellant V/s. Dahyabhai Amarsinh..... Respondent, taking together & analyzing the integrated impact of section 2(oo), section 25-B & section 25-F in paragraph 7 page 43, it has been held by Hon'ble Supreme Court, " To attract provisions of Section 25-F, the workman claiming protection under it, has to prove that there exists relationship of

employer and employee; that he is a workman within the meaning of section 2(s) of the Act; the establishment in which he is employed is an industry within the meaning of the Act and he must have put in not less than one year of continuous service as defined by section 25-B under the employer. These conditions are cumulative. If any of these conditions is missing the provisions of section 25-F will not be attracted. To get relief from the court the workman has to establish that he has right to continue in service and that his service has been terminated without complying with the provisions of section 25-F of the Act. The section postulates three conditions to be fulfilled by an employer for getting a valid retrenchment, namely:—

- (i) one month's clear notice in writing indicating the reasons for retrenchment or that the workman has been paid wages for the period of notice in lieu of such notice;
- (ii) payment of retrenchment compensation which shall be equivalent to 15 day's average pay for every completed year of continuous service or any part thereof, in excess of six months;
- (iii) a notice to the appropriate Government in the prescribed manner.

34. Looking in to the above provisions & the law laid down by the Hon'ble Supreme Court to attract the provision of section 25-F, it is clear that the applicant has failed to prove that he has worked continuously for more than 240 days in a calendar year immediately preceding the date of his termination, thus, provision of section 25-F is not attracted in the case of applicant. From above discussion. I am of the view that the applicant has not worked for more than 240 days as daily wage immediately preceding 12 months from the date of his alleged termination on 30.08.06 & his services were not terminated in violation of section 25-F of Industrial Disputes Act. Issue No. 1 is accordingly decided in negative against the applicant.

35. It has been argued by the learned counsel for the applicant that even if section 25-F is not attracted in case of applicant, he is entitled to the benefits of section 25-G & 25-H which are independent of section 25-F. Reliance has been placed on RLR 1991(2), Jaipur Bench, Oriental Bank of Commerce.....Appellant V/s. Presiding Officer, Central Govt. Industrial Tribunal & others & RLR 1991 (2), Jaipur Bench, Surya Prakash Sharma Petitioner V/s. Rajasthan Text Book Board, Jaipur & other (122) Respondent. Against this it has been argued by learned counsel for opposite party that provision of section 25-G & 25-H is not attracted in the case of applicant. I have carefully gone through both the above reported cases.

36. In case of Oriental Bank of Commerce V/s. Presiding Officer respondent 2 was employed in the bank of petitioner from 23.5.85 to 28.5.85 for a period of 79 days. He was said

to be appointed for leave period only & his engagement came to end after expiry of period of leave. The respondent raised industrial dispute relating to section 25-G & 25-H which was referred for adjudication. After the evidence of both the parties tribunal came to the conclusion that there was violation of section 25-G & section 25-H, hence, respondent was directed to be reinstated & it was also directed that he will entitled to pay from the date of joining because respondent was said to be on the job in some other place. On the basis of evidence tribunal came to conclusion that management had failed to indicate that who was on leave in whose place respondent was employed during leave vacancy, hence, this fact was not admitted by tribunal that engagement of respondent was for the period of leave vacancy. It was admitted by the witness of the management that when respondent was removed from service employee Sh. Virendra Singh junior to the respondent was working. It was also admitted by management witness that after removal of respondent Sh. Mulan Rasool & Sh. Narendra Bhatt were appointed on the post of peon but respondent was not given opportunity. Thus, there was violation of section 25-G & 25-H. Petition against the order of tribunal was dismissed by Division Bench of Hon'ble High Court & award of the tribunal was confirmed.

37. In RLR 1991 (2), Jaipur Bench, Surya Prakash Sharma Petitioner V/s. Rajasthan Text Book Board, Jaipur & others (122) Respondent, it has been held by Hon'ble High Court that section 25-G, 25-H and 25-F are independent of each other & section 25-G & 25-H are not dependent on section 25-F. It has also been held that section 25-G & 25-H are applicable irrespective of the fact that the workman has completed 240 days of service or not. It has been further held that rule 76 to 78 of Industrial Dispute Rules, 1957 are independent of each other & mandatory in nature. Violation of these rules will give a cause of action in favour of workman to claim compensation, damages & re-employment. To derive the benefits of these rules continuous service is not necessary & workmen not having completed 240 days of service are also entitled to the benefits of Rule 76 to 78. In this case petitioner Sh. Surya Prakash Sharma was retrenched from service before completion of 240 days & was not entitled for the benefits u/s 25 of I.D. Act. The only question involved in this case was about applicability of section 25-H of I.D. Act read with Rule 77 & 78. The case of the respondent was that after discharge of petitioner on 1.11.88 they had employed few persons although persons who employed were discharged on 19.8.89. The petition of the petitioner was allowed & he was held entitled to claim wages by way of compensation for the period during which his junior remain in employment.

38. In 1976 LLJ, Supreme Court 478, State Bank of India Appellant v/s. N. Sundaramoney..... Respondent, it has been held by Hon'ble Supreme Court that read with

section 25-B(2) if provision of section 25-F of Industrial Dispute Act is attracted in case of the workman, he cannot be retrenched without payment of compensation at the time of retrenchment as prescribed therein. It is pertinent to mention that facts & circumstances of the present case are different comparing to the facts of State Bank of India V/s. N. Sundarmoney, hence, law laid down by Hon'ble Supreme Court in State Bank of India V/s. N. Sundarmoney is not attracted in the present case.

39. From decision of Issue No. 2 & 3 it is clear that applicant is not entitled to the benefit for violation of section 25-G & 25-H of Industrial Dispute Act because violation of these two sections have not been proved by the applicant. It is also clear from the evidence on record that no seniority list is in existence as the case of opposite party is that there was no employment in respect of applicant & he was only engaged casually as & when there was existence of work. Applicant has not proved his appointment or termination by filing any documentary evidence in this behalf who was engaged as daily wager. It has been held by Hon'ble Supreme Court in 2006 Supreme Court Cases (L&S) 38, Surendranagar District Panchayat Appellant V/s. Dahyabhai Amarsinh..... Respondent, in para 18 of the judgement in relation to section 25-G & section 25-H as under:—

"..... In the absence of regular employment of the workmen, the appellant was not expected to maintain seniority list of the employees engaged on daily wages and in the absence of any proof by the respondent regarding existence of the seniority list and his so-called seniority, no relief could be given to him for non-compliance with provisions of the Act. The courts could have drawn adverse inference against the appellant only when seniority list was proved to be in existence and then not produced before the court. In order to entitle the Court to draw inference unfavourable to the party, the court must be satisfied that evidence is in existence and could have been proved." Finding of Hon'ble Supreme Court in 2006 Supreme Court Cases (L&S) 38, Surendranagar District Panchayat Appellant V/s. Dahyabhai Amarsinh Respondent, is relevant & applies to the case of applicant.

40. Bases on the findings related to issue No. 1 to 4 & from the discussions as above, I am of the view that applicant is not entitled to any relief as prayed in the statement of claim & action of the management of Archaeological Survey of India in terminating the services of the workman Wahid Mohammed *w.e.f.* 30.08.06 without following the provisions of section 25-F, 25-G & 25-H of Industrial Disputes Act, 1947 is legal & justified.

41. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली 25 जून, 2015

का.आ. 1302.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आर्कियोलॉजिकल सर्वे ऑफ इंडिया राजस्थान के प्रबंधतंत्र के संबंधित नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ सं० 46/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 24/06/2015 को प्राप्त हुआ था।

[सं० एल-42012/32/2007-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 25th June, 2015

S.O. 1302.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 46/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Archaeological Survey of India Rajasthan and their workman, which was received by the Central Government on 24/06/2015.

[No. L-42012/32/2007-IR-(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, JAIPUR

BHARAT PANDEY, Presiding Officer

I.D. 46/2007

Reference No. L-42012/32/2007-IR(DU) dated 23.7.2007

Sh. Hanuman Mali
S/o Shri Sitaram Mali
R/o 6 Ghar, Ramsingh Pura,
Post Sherpur, Sawai Madhopur (Rajasthan).

V/s

The Regional Officer
Archaeological Survey of India
Ranthambhor Durg,
Sawai Madhopur (Rajasthan).

For the Applicant : Sh. M.F. Beig, Advocate.
For the Non-applicant : Sh. T.P. Sharma, Advocate.

AWARD

18.5.2015

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-Section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial Dispute to this tribunal for adjudication:-

"Whether the action of the management of Archaeological Survey of India, in terminating the services of their workman Shri Hanuman Mali, w.e.f. 08.7.2006, without following the provisions of Sections 25F, 25G and 25H of the Industrial Dispute Act, 1947 is legal and justified? If not, to what relief the workman is entitled to?"

2. The fact of the case in brief is that the applicant workman was appointed as daily wager on 25.5.2003. He was discharging his duty since appointment honestly & there was no complaint by opposite party against his work. Whatever work was assigned to the applicant he completed that work to best of his ability. Applicant was never served with any notice & no charge was ever proved against him.

3. He was appointed on daily wage but his period of appointment or nature of work was not fixed. The work for which he was appointed by opposite party is still existing & the nature of work is permanent. The applicant is 'workman' & the opposite party is 'employer' according to the definition of 'workman' & 'employer' provided in Industrial Disputes Act, 1947. The applicant had worked for more than 240 days in a calendar year immediately preceding the date of termination & his services were terminated on 8.7.2006 without giving any notice or any payment in lieu of notice or retrenchment compensation in violation of section 25-F of Industrial Disputes Act, 1947. His termination is unfair labour practice & victimization adopted by opposite party.

4. Before the termination of the workman seniority list was neither prepared nor published by the opposite party which is violation of Rule 77 of Industrial Disputes Rules, 1958. At the time of termination of the service workmen junior to the applicant were retained in service by the opposite party in violation of section 25-G of Industrial Disputes Act, 1947. The opposite party has made new appointment after termination of the services of the applicant workman but no priority was given to the applicant which is violation of section 25-H of Industrial Disputes Act, 1947 & Rule 78 of Industrial Disputes Rules, 1958. It has been further alleged by the applicant that applicant requested the opposite party to take the applicant in his employment but he was not taken back & due to none cooperation of opposite party conciliation also failed before the Conciliation Officer. The opposite party has accepted before the Conciliation Officer that applicant was kept on work & work was taken from him, hence the relation of employer & workman has not been denied by the opposite party but to escape from the liability of illegal termination it has been denied that opposite party is 'Industry' within the meaning of definition provided in Industrial Disputes Act, 1947. The true position is that according to the activities & work the opposite party is an 'industry' according to the definition of industry provided under Industrial Disputes Act, 1947. The provision of Industrial Disputes Act, 1947

have not been followed by opposite party, hence, the termination of the services of the workman is illegal & unfair.

5. It has been further alleged that allegation of the opposite party before the Conciliation Officer is that the applicant workman was absent from duty from 15.3.2006 to 8.6.2006 but workman was not given any show cause notice. Neither any charge sheet was served upon him regarding absence from place of duty nor any charge was proved. The applicant had made his stand clear before the management that he has not remained absent during above said period & instead of absence he has been working in that period. The applicant had completed more than two years of service & he was demanding from the opposite party to declare him semi permanent employee. As a result of above demand of the applicant the opposite party instead of making him semi permanent terminated the services of the applicant. The applicant is jobless since the date of termination. It is, therefore, requested that termination order dated 8.7.2006 be declared illegal & applicant reinstated with all pay & emoluments along with continuity in service.

6. In reply statement in para 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 & 20 of the statement of claim have been specifically denied. In additional reply it has been alleged in para 2 that the applicant labourer was not appointed by the opposite party & he was engaged as casual labourer for carrying out casual work on the basis of part time contract & such engagement was coming to end immediately after completion of the work. It has also been alleged that the applicant labourer has never completed 240 days in any year & applicant is under an obligation to prove this fact by document. Statement of para 5 of statement of claim has been said to be baseless & nature of the work for which applicant was engaged is alleged to be casual. Against para 7 it has been alleged that to succeed in his sinister design applicant has fabricated the statement.

7. It has been alleged against para 8 of the statement of claim that applicant was called for a fixed work & his services were coming to end after completion of the work. Relation between applicant & opposite party as workman & employer has been specifically denied against para 9 of the statement of claim & has been alleged that since he was never appointed the question of such relationship does not arise. The applicant does not fall within the definition of workman & the department of the opposite party does not fall within the definition of Industry. Applicant was never engaged permanently & he was called only when there was work. He was neither appointed on any post after following the rules of appointment nor any appointment letter was issued to him, therefore, question of termination of his services does not arise. It has been alleged in para 11 of reply that it is pertinent to note that applicant was not removed from the institution of opposite party & the fact is that the work was over hence, his services automatically came to an end. It was not necessary to give notice to the applicant because such notice is issued only

to such workman who permanently work for a period of more than 240 days & the department is not satisfied with work of such workman, in that event such workman may be removed after serving one month notice. In case of applicant after completion of work he himself had gone elsewhere.

8. Against para 13 of statement of claim it has been alleged that workmen like applicant are not given any appointment letter neither they are deemed regular workmen of the department. Workman like applicant are engaged on daily wage basis according to need of a particular work for its execution & they are removed after completion of work or at the end of financial year or on other technical ground on suspension or stoppage of work. Against para 14 of statement of claim it has been alleged that nature of the new recruitment by the department whose nature is permanent is done by following the legal procedure & selection is made out of person who possess the prescribed eligibility. Applicant was not appointed on any vacant post under grade 'D'. At the time of engaging the applicant workman he was briefed orally that he is engaged against a specific work & nature of the work is purely temporary & casual in which applicant is not entitled to derive benefit of provisions of Industrial Disputes Act. The allegation of the applicant is wrong that he was removed out of animosity. In absence of casual work the services of the workman automatically comes to an end. In last paragraph of the reply it has been prayed that order of dismissal be passed against the statement of claim.

9. In rejoinder dated 3.6.2010 filed by applicant, statement of claim has been reiterated & statement of reply submitted by the opposite party has been alleged to be wrong.

10. In preliminary objection against statement of claim filed by opposite party it has been alleged that applicant was neither given any appointment nor there was any sanctioned or vacant post. Department of the opposite party is not covered within the definition of industry as provided in section 2(j) of Industrial Disputes Act. In B-40/97, Gobardhan Lal Meena v/s Archaeological Survey of India, it has been held by the Hon'ble Tribunal in its award dated 18.1.2001 that Archaeological Survey of India is not covered within the definition of industry. Industrial Tribunal, Jabalpur in its award dated 9.6.2003 has held that Archaeological Survey of India is not an 'Industry' within the meaning of section 2(j) of Industrial Disputes Act. It has also been alleged that the applicant was engaged for completion of casual work for fixed period of time & he has not worked for 240 days in any of the year, hence, he is not entitled to the benefit of Industrial Dispute Act. It has also been alleged that the applicant left the work on his own even before the completion of the work, hence, he is not entitled to any relief.

11. Against preliminary objection it has been alleged by the applicant that preliminary objections are not tenable at belated stage. It has also been alleged that various

precedents it has been alleged that preliminary objections are to be decided along with other issues on merits. It has also been alleged that preliminary objections are evidence based, hence, opposite party be directed to file the reply to the statement of claim.

12. Under mentioned issues were framed on 27.7.2011 by the then learned Presiding Officer of the Tribunal, based on pleadings of both the parties :—

- (1) Whether the workman had worked for more than 240 days as daily wager during period 25.5.2003 to 8.7.2006 preceding twelve months from the date of his alleged termination & whose service was terminated in violation of section 25-F of the Act?
- (2) At the time of terminating the service of the workman the juniors person to him were retained by the management in contravention of section 25-G of the I.D. Act?
- (3) Whether subsequent to the termination of the workman fresh hands were engaged by the non-applicant management in violation of section 25-H of the I.D. Act?
- (4) Whether non-applicant establishment is an 'industry' within the meaning of section 2-J of the I.D. Act?

13. Applicant has filed document W-1 which is reply of opposite party before conciliation proceeding, affidavit of the applicant in evidence and statement of number of working days in calendar year 2003, 2004, 2005 & 2006. Applicant has been cross examination by opposite party on his affidavit.

14. In documentary evidence, opposite party has filed statement of payment made to applicant & other workmen which is 17 page. This document has been filed on direction of tribunal given on application of the applicant. Opposite party has filed affidavit of Sh. Brijraj Singh in evidence. Sh. Brijraj Singh has been cross examined on 28.10.14 by applicant side.

15. I have heard the argument of learned counsel for both the parties & perused the file. Written argument have been filed by both the parties which is on record.

16. Following citations have been referred on behalf of applicant:—

- i. 1976 LLJ, Supreme Court 478, State Bank of India..... Appellant v/s. N. Sundaramoney....Respondent.
- ii. Judgement & order dated 21.2.1978 in civil appeal no. 753-754(T) of 1975, Bangalore Water Supply & Sewerage Board etc.etc. v/s. Rajappa & others etc. etc.
- iii. 1983 LAB.I.C. 1629(Supreme Court), D.P. Maheshwari...Appellant v/s Delhi Administration & other....Respondents.

- iv. Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.d. No.78/84 in Workman through the President, Archaeological Survey Mazdoor Union, New Delhi v/s The Director General, Archaeological Survey of India, Janpath, New Delhi.
- v. RLR 1991(2), Jaipur Bench, Oriental Bank of Commerce....Appellant v/s Presiding Officer, Central Govt. Industrial Tribunal & others (23).
- vi. RLR 1991 (2), Jaipur Bench, Surya Prakash Sharma...Petitioner v/s Rajasthan Text Book Board, Jaipur & other (122)....Respondent.
- vii. Award dated 17.11.2008 passed by Industrial Tribunal-cum-Labour Court, Kanpur, in Industrial Dispute no. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s Suresh Chandra.

17. Following citations have been referred on behalf of opposite party:—

- i. Award dated 26.11.1986 passed by Central Administrative Tribunal, Ahmedabad in O.A.No.33/86, Govind Kanji Parmar & others....Petitioner v/s Union of India & other....Respondents.
- ii. Award dated 30.10.1996 passed by Central Administrative Tribunal, Jodhpur Bench, Jodhpur in O.A.No.331 to 334/1993, Devi Singh & others...petitioners v/s Union of India & others Respondents.
- iii. Award dated 18.1.2001 passed by Central Government Industrial Tribunal-cum-Labour Court, Jaipur in CGIT case no. B- 40/97 in Goverdhan Lal Meena v/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun.

18. It has been argued by the learned counsel for the applicant that applicant has completed continuous 240 days of service in every year but he has removed from service by opposite party in violation of section 25-F, 25-G & 25-H of the Industrial Disputes Act, 1947. It has also been argued that contention of the opposite party is against the law that Archaeological Survey of India is not an 'Industry' within the meaning of section 2(j) of the Act. Against this it has been argued by learned counsel for the opposite party that Archaeological Survey of India is not an 'Industry' & there is no violation of section 25-F, G & H of the Act. It has also been argued that applicant was neither appointed nor any appointment letter was issued. There was no advertisement for recruitment. It has also been argued that applicant was engaged on part time contract for casual work or repair & soon after completion of the work engagement of the applicant was over. It has also been alleged that his engagement was on daily wage & as the work of repair of the wall was of temporary character hence, on account of end of job & none availability of further job

the applicant himself had left the place of job. It has also been argued that whenever there is availability of work, workmen are engaged on daily wage basis for the job. Reference has been made by both the parties towards precedents submitted by them in favour of their respective claim.

19. Before issue no.1 is decided it appears desirable to take up issues 2,3, & 4 for decision because decision of these issues are important & having relevance in decision of issue no.1.

Issue no.2

20. This issue relates to violation of section 25-G of industrial Disputes Act, 1947 in terminating the services of applicant. Section 25-G of Industrial Disputes Act, 1947 reads as under:—

"Section 25-G. Procedure for retrenchment.—

Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman."

21. From perusal of the provision contained in section 25-G it appears that whenever in ordinary course of business a workman is required to be retrenched then the last person employed by the employer shall be retrenched first unless there is special reason for retrenchment of a person other than the last employed person. From perusal of statement of claim it is evident that in para 13 it has been alleged that there has been violation of section 25-G of Industrial Disputes Act, 1947 in terminating the services of the applicant & junior to the applicant was retained in service at the time of his removal but no one has been named in statement of claim that who is the person junior to the applicant who was retained. In the affidavit also filed by applicant as evidence there is no mention of a person junior to him who was retained in the service at the time of his removal. In the cross examination of the applicant on page 2 this question has been placed before him & he has alleged that when he was removed at that time all other workmen were also removed. This statement of the applicant during cross examination obviously indicates that no one junior to him was retained & removal of all the workman together is also indicative of the fact of Cessation or completion of a particular work for which they are engaged. Here, it is also pertinent to note that it has been repeatedly argued by learned counsel for opposite party that in fact there has been no appointment, therefore, the question of removal of the applicant from employment does not arise. From the perusal of the cross examination of Sh Brijraj

Singh, Deputy Superintendent (Archaeology) it is clear that no assistance can be taken on this point from his cross examination. Based on above discussion, it is clear that the applicant has failed to prove that at the time of termination of the service of applicant workman, juniors to him were retained by the management in contravention of section 25-G of the I.D. Act. Issue no.2 is accordingly decided in negative against the applicant.

Issue No. 3

22. This issue is to the effect that whether subsequent to the termination of the workman fresh workman were engaged by the non-applicant management in violation of section 25-H of the I.D. Act. For convenience provision of Section 25-H is reproduced below which reads as under:—

"Sec. 25-H Re-employment of retrenched workmen—Where any workmen are retrenched, and the employer purposes to take into his employ any persons he shall, in such manner as may be prescribed, give an opportunity to the retrenched workmen who are citizens of India to offer themselves for re-employment, and such retrenched workmen, who offer themselves for re-employment shall have preference over other persons.

23. The above mentioned section 25-H provides that a retrench employee shall have preference in appointment over rest, if management, intends to employ a workman & the management is under an obligation to give opportunity to retrench workman so that he can offer himself for employment. If opportunity is not given by management it will amount to violation of section 25-H of I.D. Act. para 14 of statement of claim indicates that after termination of the services of applicant new appointment were made without preference given to applicant. In reply to para 14 of statement of claim non-applicant has denied the appointment. There is no documentary evidence on record about new appointment. Para 6 of affidavit of applicant filed in evidence indicates that new appointment were made with no preference to applicant but in cross examination applicant has admitted that in his affidavit & statement of claim he has not alleged that after his removal who was appointed & when. The applicant has also admitted that in statement of claim also he has not given detail of newly appointed persons. In para 11 of affidavit of Sh. Brijraj Singh witness for opposite part violation of section 25-G & H has been specifically denied. In cross examination of Sh. Brijraj Singh there is nothing significant to draw an inference about violation of section 25-H of I.D. Act. Based on above discussion & appreciation of evidence adduced by the parties I am of the view that the applicant has failed to prove the violation of section 25-H of the I.D. Act regarding appointment of fresh hands subsequent to termination of his service. Issue no.3 is accordingly decided against the applicant.

Issue no. 4

24. This issue is to effect that whether establishment of the non-applicant Archaeological Survey of India is an Industry within the meaning of section 2(j) of the I.D. Act. A preliminary objection has been raised by non-applicant that establishment of the non-applicant is not covered under definition of 'Industry' as indicated in section 2(j) of the I.D. Act. Reliance has been placed by non-applicant on Award dated 18.1.2001 passed by Central Government Industrial Tribunal-cum-Labour Court, Jaipur in CGIT case no. B-40/97 in Goverdhan Lal Meena v/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun. Against this, it has been argued by learned counsel for the applicant that establishment of non-applicant is covered by the definition of 'Industry'. Reliance has been placed by non-applicant on Judgement & order dated 21.2.1978 in civil appeal no. 753-754(T) of 1975, Bangalore Water Supply & Sewerage Board etc.etc v/s A. Rajappa & other etc.etc., Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No. 78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi v/s The Director General, Archaeological Survey of India, Janpath, New Delhi & Award dated 17.11.2008 passed by Industrial Tribunal-cum-Labour Court, Kanpur, In Industrial Dispute no. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s Suresh Chandra. I have very carefully gone through cases cited by both the parties.

25. In Award dated 18.1.2001 passed by Central Government Industrial Tribunal-cum-Labour Court, Jaipur in CGIT case no. B-40/97 in Goverdhan Lal Meena v/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun, cited by learned counsel for the opposite party it has been held in decision of issue no.4 that provision of I.D. Act, 1947 apply to the case. Issue no.4 has dealt with the fact that provisions of I.D. Act. apply to the opposite party or not. Cases cited by learned counsel for the applicant indicate that Archaeological Survey of India is covered within the definition of 'Industry' as provided in section 2(j) of the I.D. Act. In Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No.78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi v/s The Director General, Archaeological Survey of India, Janpath, New Delhi, discussing the case of Judgement & order dated 21.2.1978 in civil appeal no. 753-754(T) of 1975, Bangalore Water Supply & Sewerage Board etc.etc v/s A. Rajappa & others etc.etc., it has been held by the CGIT, Delhi that Archaeological Survey of India is an 'Industry'. In Award dated 17.11.2008 passed by Industrial Tribunal-cum-Labour Court, Kanpur, in Industrial Dispute no.9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s Suresh Chandra, it has been held by CGIT, Kanpur

that Archaeological Survey of India is an 'Industry'. From decision of the cases cited on behalf of both the parties & from the fact & circumstances of the present case, I am of the view that establishment of non-applicant Archaeological Survey of India is an 'Industry' within the meaning of section 2(J) of Industrial Disputes Act, 1947. Issue no.4 is accordingly decided in affirmative against the non-applicant.

Issue No. 1

26. This issue is to the effect whether the workman had worked for more than 240 days as daily wager during period 25.5.03 to 8.7.06 preceding twelve months from the date of his alleged termination & whether his service was terminated in violation of section 25-F of the Act? It has been argued by learned counsel for the applicant & has also been alleged in the written argument that the applicant has worked for more than 240 days as daily wager during period of 12 months immediately preceding the date of termination on 8.7.06 & termination of the services of applicant is in violation of section 25-F of Industrial Disputes Act, hence, the order of termination is fit to be set aside with continuity in service along with back wages. Against this, it has been argued by the learned counsel for the opposite party & has also been alleged in the written argument that applicant was not appointed by non-applicant, no appointment letter was issued, there was no advertisement for any appointment. It has also been argued that applicant was engaged on daily wages basis for repair of the walls of the fort which is a work of temporary nature. It has also been argued that applicant voluntarily left the place of work on account of non availability of work. It has also been said that on availability of work engagement is made on daily wages basis for the period of work only & provision of section 25-F is not attracted in the case of applicant. It has also been alleged that in view of case of the applicant covered under section 2(o) (bb) of the I.D. Act, compliance of provision of section 25-F is not required.

27. According to statement of claim applicant was appointed on daily wages on 25.5.03 & was terminated on 8.7.06 without notice or pay in lieu of notice or retrenchment compensation in violation of section 25-F of I.D. Act. What was the post held by the applicant during employment has not been alleged in statement of claim. About the nature of the work the applicant has alleged that whatever work was assigned by the opposite party applicant was performing that work. It has also been alleged that his engagement was neither for a fix work or for a fix period. The applicant has alleged that he has worked for more than 240 days in every year. In affidavit filed in evidence in support of above statement of claim the applicant has repeated the allegation of statement of claim. No other co-worker has been produced as witness in evidence to support the allegation of statement of claim. In written statement it has been

specifically denied by opposite party that applicant has worked for more than 240 day in a year instead it has been alleged that applicant has not worked for 240 days in any of the year. Sh. Brijraj Singh has specifically denied in para 3 of his affidavit that the applicant has worked for 240 days in any of the year. In above fact & circumstances, the burden of proff lies on applicant to prove that he has worked for more than 240 days in a year immediately preceding the date of his termination on 8.7.06 as alleged in statement of claim. The applicant has alleged in his cross examination that he has not stated in his affidavit in evidence or in statement of claim that for how many days he has worked in any corresponding year. He has admitted that he has filed document w-1 & in w-1 nature of work has been mentioned for which he was engaged & in w-1 it has been mentioned that the nature work includes 'special repair work' & such mention in w-1 is correct. Thus, it shall appear that two documents relating to total number of days of work has been filed by the applicant which is w-1 & w-2. W-2 is the document which appeared to be prepared by workman whereas w-1 is the document which appears to be reply submitted by management during conciliation proceedings. From document w-2 if taken into consideration for calculating the period of 240 days immediately preceding the date of termination on 8.7.06 then total number of days on which the workman has worked between 8.7.05 to 8.7.06 comes out to be 220 days. From document w-1 it comes out to be 250 days but lacks continuity. Thus, workman has failed to prove that he has continuously worked for more than 240 days in the year immediately preceding the date of his termination. It has also appear from both the documents w-1 & w-2 that there is no continuous work in the year.

28. Document regarding period & corresponding working days filed by management on order of the tribunal passed on application of the applicant provides following details:—

Period of work	Number of working days.
19.2.03 to 20.3.03	NIL
17.1.04 to 16.2.04	28
13.4.04 to 13.5.04	NIL
15.5.04 to 14.6.04	NIL
11.7.04 to 10.8.04	NIL
12.8.04 to 11.9.04	NIL
13.9.04 to 13.10.04	NIL
14.10.04 to 31.10.04	17
3.12.04 to 2.1.05	NIL
4.1.05 to 3.2.05	NIL
6.2.05 to 8.3.05	NIL

9.3.05 to 17.3.05	NIL
9.11.05 to 9.12.05	NIL
10.12.05 to 9.1.06	NIL
11.1.06 to 10.2.06	NIL
12.2.06 to 14.3.06	NIL
9.6.06 to 7.7.06	NIL
Total number of days between 8.7.2005 to 8.7.2006	NIL

29. The statement of above table submitted by opposite party regarding statement of work done by workman indicates that from the date of termination on 8.7.06 applicant has worked only for Nil days in a year immediately preceding the date of termination on 8.7.06. Thus, it is evident that the workman has not worked continuously for 240 days immediately preceding the date of termination. From the above discussion it is clear that applicant has failed to prove that he has worked for more than 240 days immediately preceding the date of termination. From the entire cross examination of Sh. Brijraj Singh there appears nothing to derive in favour of applicant that he has worked for more than 240 days in a year preceding the date of termination. From the above discussion it is clear that applicant has failed to prove that he has continuously worked for more than 240 days in a year immediately preceding the date of his termination.

30. As far as the question of violation of section 25-F of Industrial Dispute is concerned it has been argued by the learned counsel for the applicant that there has been violation of section 25-F in terminating the services of the applicant, against this learned counsel for the opposite party has argued that there is no violation of section 25-F of I.D. Act & section 25-F does not apply in the case of applicant who was neither employed nor termination & his engagement has been only for specific period & specific work & he has left the workplace on his own accord. It has also been argued that as the question of terminating the services of the applicant does not arise, because he was not given any employment & there was no advertisement for employment for employment, hence, section 25-F does not apply to the case of the applicant. Section 25-F reads as under:—

"25-F. Condition precedent to retrenchment of workmen.—No workman, employed in any Industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

- (a) The workman has been given on month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;

- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service) or any part thereof in excess of six months; and
- (c) notice in the prescribed manner is served on the appropriate Government (or such authority as may be specified by the appropriate Government by notification in the Official Gazette.)

31. Continuous service as indicated in section 25-F(1) has been defined in section 25-B(1) (ii) which reads as under:—

Section 25-B. Definition of continuous service.——
For the purposes of this Chapter——

(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman.

(2) where a workman is not in continuous service within the meaning of Clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer——

- (a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than——
 - (i) one hundred and ninety days in the case of a workman employed below ground in a mine; and
 - (ii) two hundred and forty days, in any other case;

32. Section 2 (oo) provides meaning of retrenchment which reads as under:—

"2(oo)——"retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as punishment inflicted by way of disciplinary action but does not include——

- (a) Voluntary retirement of the workman; or
- (b) Retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contained a stipulation in that behalf; or
- (bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated

under a stipulation in that behalf contained therein;
or

- (c) termination of the service of a workman on the ground of continued ill-health;

33. In 2006 Supreme Court cases (L&S) 38, Surendrangar District Panchayat.....Appellant V/s Dahyabhai Amarsinh.....Respondent, taking together & analyzing the integrated impact of section 2(oo), section 25-B & section 25-F in paragraph 7 page 43, it has been held by Hon'ble Supreme Court, ".....To attract provision of Section 25-F, the workman claiming protection under it, has to prove that there exists relationship of employer, and employee; that he is a workman within the meaning of section 2(s) of this Act; the establishment in which he is employed is an industry within the meaning of the Act and he must have put in not less than one year of continuous service as defined by section 25-B under the employer. These conditions are cumulative. If any of these conditions is missing the provisions of section 25-F will not be attracted. To get relief from the court the workman has to establish that he has right to continue in service and that this service has been terminated without complying with the provisions of section 25-F of the Act. The section postulates three conditions to be fulfilled by an employer for getting a valid retrenchment, namely:—

- (i) one month's clear notice in writing indicating the reasons for retrenchment or that the workman has been paid wages for the period of notice in lieu of such notice;
- (ii) payment of retrenchment compensation which shall be equivalent to 15 days' average pay for every completed year of continuous service or any part thereof, in excess of six months;
- (iii) a notice to the appropriate Government in the prescribed manner.

34. Looking into the above provisions & the law laid down by the Hon'ble Supreme Court to attract the provision of section 25-F, it is clear that the applicant has failed to prove that he has worked continuously for more than 240 days in calendar year immediately preceding the date of his termination, thus provision of section 25-F is not attracted in the case of applicant. From above discussion, I am of the view that the applicant has not worked continuously for more than 240 days as daily wage immediately preceding 12 months from the date of his alleged termination on 8.7.06 & his services were not terminated in violation of section 25-F of Industrial Disputes Act. Issue No. 1 is accordingly decided in negative against the applicant.

35. It has been argued by the learned counsel for the applicant that even if section 25-F is not attracted in case of applicant, he is entitled to the benefits of section 25-G &

25-H which are independent of section 25-F. Reliance has been placed on RLR 1991(2), Jaipur Bench, Oriental Bank of Commerce....Appellant v/s Presiding Officer, Central Govt. Industrial Tribunal & others & RLR 1991 (2), Jaipur Bench, Surya Prakash Sharma....Petitioner v/s Rajasthan Text Book Board, Jaipur & other (122).....Respondent. Against this it has been argued by learned counsel for opposite party that provision of section 25-G and 25-H is not attracted in the case of applicant. I have carefully gone through both the above reported cases.

36. In case of Oriental Bank of Commerce v/s Presiding Officer respondent 2 was employed in the bank of petitioner from 23.5.85 to 28.5.85 for a period of 79 days. He was said to be appointed for leave period only & his engagement came to end after expiry of period of leave. The respondent raised industrial dispute relating to section 25-G & 25-H which was referred for adjudication. After the evidence of both the parties tribunal came to the conclusion that there was violation of section 25-G & section 25-H, hence, respondent was directed to be reinstated & it was also directed that he will be entitled to pay from the date of joining because respondent was said to be on the job in some other place. On the basis of evidence tribunal came to conclusion that management had failed to indicate that who was on leave in whose place respondent was employed during leave vacancy, hence, this fact was not admitted by tribunal that engagement of respondent was for the period of leave vacancy. It was admitted by the witness of the management that when respondent was removed from service employee Sh. Virendra Singh junior to the respondent was working. It was also admitted by management witness that after removal of respondent Sh. Mulan Rasool & Sh. Narendra Bhatt were appointed on the post of peon but respondent was not given opportunity. Thus, there was violation of section 25-G & 25-H. Petition against the order of tribunal was dismissed by Division Bench of Hon'ble High Court & award of the tribunal was confirmed.

37. In RLR 1991(2), Jaipur Bench, Surya Prakash Sharma....Petitioner v/s Rajasthan Text Book Board, Jaipur & others (122).....Respondent, it has been held by Hon'ble High Court that section 25-G & 25-H & 25-F are independent of each other & section 25-G & 25-H are not dependent on section 25-F. It has also been held that section 25-G & 25-H are applicable irrespective of the fact that the workman has completed 240 days of service or not. It has been further held that rule 76 to 78 of Industrial Dispute Rules, 1957 are independent of each other & mandatory in nature. Violation of these rules will give a cause of action in favour of workman to claim compensation, damages & re-employment. To derive the benefits of these rules continuous service is not necessary & workmen not having completed 240 days of service are also entitled to the benefits of Rule 76 to 78. In this case petitioner Sh. Suryaprakash Sharma was retrenched from service before

completion of 240 days & was not entitled for the benefits u/s 25 of I.D. Act. The only question involved in this case was about applicability of section 25-H of I.D. Act read with Rule 77 & 78. The case of the respondent was that after discharge of petitioner on 1.11.88 they have employed few persons although persons who employed were discharged on 19.8.89. The petition of the petitioner was allowed & he was held entitled to claim wages by way of compensation for the period during which his junior remain in employment.

38. In 1976 LLJ, Supreme Court 478, State Bank of India....Appellant v/s N. Sundaramoney...Respondent, it has been held by Hon'ble Supreme Court that read with section 25-B(2) if provision of section 25-F of Industrial Dispute Act is attracted in case of the workman, he cannot be retrenched without payment of compensation at the time of retrenchment as prescribed therein. It is pertinent to mention that facts & circumstances of the present case are different comparing to the facts of State Bank of India v/s N. Sundaramoney, hence, law laid down by Hon'ble Supreme Court in State Bank of India v/s N Sundaramoney is not attracted in the present case.

39. From decision of issue No. 2 & 3 it is clear that applicant is not entitled to the benefit for violation of section 25-G & 25-H of Industrial Dispute Act because violation of these two sections have not been proved by the applicant. It is also clear from the evidence on record that no seniority list is in existence as the case of opposite party is that there was no employment in respect of applicant & he was only engaged casually as & when there was existence of work. Applicant has not proved his appointment or termination by filing any documentary evidence in this behalf who was engaged as daily wage. It has been held by Hon'ble Supreme Court in 2006 Supreme Court Cases (L&S) 38, Surendranagar District Panchayat....Appellant V/s Dahyabhai Amarsinh....Respondent, in para 18 of the judgement in relation of section 25-G & section 25-H as under:—

".....In the absence of regular employment of the workmen, the appellant was not expected to maintain seniority list of the employees engaged on daily wages and in the absence of any proof by the respondent regarding existence of the seniority list and his so-called seniority, no relief could be given to him for non-compliance with provisions of the Act. The courts could have drawn adverse inference against the appellant only when seniority list was proved to be in existence and then not produced before the court. In order to entitle the court to draw inference unfavourable to the party, the court must be satisfied that evidence is in existence and could have been proved." Finding of Hon'ble Supreme Court in 2006 Supreme Court Cases (L&S) 38, Surendranagar District Panchayat..... Appellant V/s Dahyabhai

Amarsinh....Respondent, is relevant & applies to the case of applicant.

40. Bases on the findings related to issue No. 1 to 4 from the discussions as above, I am of the view that applicant is not entitled to any relief as prayed in the statement of claim & action of the management of Archaeological Survey of India in terminating the services of the workman Sh. Hanuman Mali w.e.f. 8.7.06 without following the provisions of section 25-F, 25-G & 25-H of Industrial Disputes Act, 1947 is legal & justified.

41. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 25 जून, 2015

का.आ. 1303.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आर्कियोलॉजिकल सर्वे ऑफ इंडिया राजस्थान के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ सं० 47/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 24/06/2015 को प्राप्त हुआ था।

[सं० एल-42012/25/2007-आईआर (डीयू)]

पी०के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 25th June, 2015

S.O. 1303.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 47/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Archaeological Survey of India, Rajasthan and their workmen, which was received by the Central Government on 24/06/2015.

[No. L-42012/25/2007-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JAIPUR**

BHARAT PANDEY, Presiding Officer

I.D. 47/2007

Reference No. L-42012/25/2007-IR (DU) dated 23.7.2007

Sh. Kamlesh Mali
S/o Shri Kajor Mali
R/o Village &
Post Sherpur,
Sawai Madhopur (Rajasthan)

V/s

The Regional Officer
Archaeological Survey of India
Ranthambhor Durg,
Sawai Madhopur (Rajasthan).

For the Applicant : Sh. M.F. Beig, Advocate.
For the Non-applicant : Sh. T.P. Sharma, Advocate.

AWARD

18.5.2015

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-section 1 & 2(A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following Industrial dispute to this tribunal for adjudication:—

"Whether the action of the management of Archaeological Survey of India, in terminating the services of their workman Shri Kamlesh Mali, w.e.f. 30.8.2006, without following the provisions of Sections 25F, 25G and 25H of the Industrial Dispute Act, 1947 is legal and justified? If not, to what relief the workman is entitled to?"

2. The fact of the case in brief is that the applicant workman was appointed as daily wager on 19.5.03. He was discharging his duty since appointment honestly & there was no complaint by opposite party against his work. Whatever work was assigned to the applicant he completed that work to best of his ability. Applicant was never served with any notice & no charge was ever proved against him.

3. He was appointed on daily wage but his period of appointment or nature of work was not fixed. The work for which he was appointed by opposite party is still existing & the nature of work is permanent. The applicant is 'workman' & the opposite party is 'employer' according to the definition of 'workman' & 'employer' provided in Industrial Disputes Act, 1947. The applicant had worked for more than 240 days in a calendar year immediately preceding the date of termination & his services were terminated on 30.8.06 without giving any notice or any payment in lieu of notice or retrenchment compensation in violation of section 25-F of Industrial Disputes Act, 1947. His termination is unfair labour practice & victimisation adopted by opposite party.

4. Before the termination of the workman seniority list was neither prepared nor published by the opposite party which is violation of Rule 77 of Industrial Disputes Rules, 1958. At the time of termination of the service workmen junior to the applicant were retained in service by the opposite party in violation of section 25-G of Industrial Disputes Act, 1947. The opposite party has made new appointment after termination of the services of the applicant workman but no priority was given to the applicant which is violation of section 25-H of Industrial Disputes Act, 1947 & Rule 78 of Industrial Disputes Rule,

1958. It has been further alleged by the applicant that applicant requested the opposite party to take the applicant in his employment but he was not taken back & due to non co-operation of opposite party conciliation also failed before the Conciliation Officer. The opposite party has accepted before the Conciliation Officer that applicant was kept on work & work was taken from him, hence, the relation of employer & workman has not been denied by the opposite party but to escape from the liability of illegal termination it has been denied that opposite party is 'Industry' within the meaning of definition provided in Industrial Disputes Act, 1947. The true position is that according to the activities & work the opposite party is an 'industry' according to the definition of industry provided under Industrial Disputes Act, 1947. The provisions of Industrial Disputes Act, 1947 have not been followed by opposite party, hence, the termination of the services of the workman is illegal & unfair.

5. It has been further alleged that allegation of the opposite party before the Conciliation Officer is that the applicant workman was absent from duty from 15.3.2006 to 8.6.2006 but workman was not given any show cause notice. Neither any charge sheet was served upon him regarding absence from place of duty nor any charge was proved. The applicant had made his stand clear before the management that he has not remained absent during above said period & instead of absence he has been working in that period. The applicant had completed more than two years of service & he was demanding from the opposite party to declare him semi permanent employee. As a result of above demand of the applicant the opposite party instead of making him semi permanent terminated the services of the applicant. The applicant is jobless since the date of termination. It is, therefore, requested that termination order dated 30.8.06 be declared illegal & applicant reinstated with all pay & emoluments along with continuity in service.

6. In reply statement in para 1,2,3,4,5,6,7,8,9,10,11, 12,13,14,15,16,17,18,19 & 20 of the statement of claim have been specifically denied. In additional reply it has been alleged in para 2 that the applicant labourer was not appointed by the opposite party & he was engaged as casual labourer for carrying out casual work on the basis of part time contract & such engagement was coming to end immediately after completion of the work. It has also been alleged that the applicant labour has never completed 240 days in any year & applicant is under an obligation to prove this fact by document. Statement of para 5 of statement of claim has been said to be baseless & nature of the work for which applicant was engaged is alleged to be casual. Against para 7 it has been alleged that to succeed in his sinister design applicant has fabricated the statement.

7. It has been alleged against para 8 of the statement of claim that applicant was called for fixed work & his services were coming to end after completion of the work. Relation

between applicant & opposite party as workman & employer has been specifically denied against para 9 of the statement of claim & has been alleged that since he was never appointed the question of such relationship does not arise. The applicant does not fall within the definition of workman & the department of the opposite party does not fall within the definition of Industry. Applicant was never engaged permanently & he was called only when there was work. He was neither appointed on any post after following the rules of appointment nor any appointment letter was issued to him, therefore, question of termination of his services does not arise. It has been alleged in para 11 of reply that it is pertinent to note that applicant was not removed from the institution of opposite party & the fact is that the work was over hence, his services automatically came to an end. It was not necessary to give notice to the applicant because such notice is issued only to such workman who permanently work for a period of more than 240 days & the department is not satisfied with work of such workman, in that event such workman may be removed after serving one months notice. In case of applicant after completion of work he himself had gone elsewhere.

8. Against para 13 of statement of claim it has been alleged that workmen like applicant are not given any appointment letter neither they are deemed regular workmen of the department. Workman like applicant are engaged on daily wage basis according to need of a particular work for its execution & they are removed after completion of work or at the end of financial year or on other technical ground on suspension or stoppage of work. Against para 14 of statement of claim it has been alleged that nature of the new recruitment by the department whose nature is permanent is done by following the legal procedure & selection is made out of person who possess the prescribed eligibility. Applicant was not appointed on any vacant post under grade 'D'. At the time of engaging the applicant workman he was briefed orally that he is engaged against a specific work & nature of the work is purely temporary & casual in which applicant is not entitled to derive benefit of provisions of Industrial Disputes Act. The allegation of the applicant is wrong that he was removed out of animosity. In absence of casual work the services of the workman automatically comes to an end. In last paragraph of the reply it has been prayed that order of dismissal be passed against the statement of claim.

9. In rejoinder dated 3.6.2010 filed by applicant, statement of claim has been reiterated & statement of reply submitted by the opposite party has been alleged to be wrong.

10. In preliminary objection against statement of claim filed by opposite party it has been alleged that applicant was neither given any appointment nor there was any sanctioned or vacant post. Department of the opposite party is not covered within the definition of industry as provided in section 2(j) of Industrial Disputes Act. In B-40/

97, Gobardhan Lal Meena v/s Archaeological Survey of India, it has been held by the Hon'ble Tribunal in its award dated 18.1.2001 that Archaeological Survey of India is not covered within the definition of industry. Industrial Tribunal, Jabalpur in its award dated 9.6.2003 has held that Archaeological Survey of Indian is not an 'Industry' within the meaning of section 2(j) of Industrial Disputes Act. It has also been alleged that the applicant was engaged for completion of casual work for fixed period of time & he has not worked for 240 days in any of the year, hence, he is not entitled to the benefit of Industrial Dispute Act. It has also been alleged that the applicant left the work on his own even before the completion of the work, hence, he is not entitled to any relief.

11. Against preliminary objection it has been alleged by the applicant that preliminary objections are not tenable at belated stage. It has also been alleged that various precedents it has been alleged that preliminary objections are to be decided along with other issues on merits. It has also been alleged that preliminary objections are evidence based, hence, opposite party be directed to file the reply to the statement of claim.

12. Under mentioned issues were framed on 27.7.2011 by the then learned Presiding Officer of the Tribunal, based on pleadings of both the parties:—

- (1) Whether the workman had worked for more than 240 days as daily wager during period 25.5.03 to 30.8.06 preceding twelve months from the date of his alleged termination & whose service was terminated in violation of section 25-F of the Act?
- (2) At the time of terminating the service of the workman the juniors person to him were retained by the management in contravention of section 25-G of the I.D. Act?
- (3) Whether subsequent to the termination of the workman fresh hands were engaged by the non-applicant management in violation of section 25-H of the I.D. Act?
- (4) Whether non-applicant establishment is an 'industry' within the meaning of section 2-J of the I.D. Act?

13. Applicant has filed document w-1 which is reply of opposite party before conciliation proceeding, affidavit of the applicant in evidence and statement of number of working days in calendar year 2003, 2004, 2005 & 2006. Applicant has been cross examination by opposite party on his affidavit.

14. In documentary evidence, opposite party has filed statement of payment made to applicant & other workmen which is 24 page. This document has been filed on direction of tribunal given on application of the applicant. Opposite party has filed affidavit of Sh. Brijraj Singh in evidence. Sh. Brijraj Singh has been cross-examined on 28.10.14 by applicant side.

15. I have heard the argument of learned counsel for both the parties & perused the file. Written argument have been filed by both the parties which is on record.

16. Following citations have been referred on behalf of applicant:-

- i. 1976 LLJ, Supreme Court 478, State Bank of India..... Appellant v/s. N. Sundaramoney....Respondent.
- ii. Judgement & order dated 21.2.1978 in civil appeal No. 753-754(T) of 1975, Bangalore Water Supply & Sewerage Board etc.etc. v/s. A. Aajappa & others etc. etc.
- iii. 1983 LAB.I.C. 1629(Supreme Court), D.P. Maheshwari...Appellant v/s Delhi Administration & others....Respondents.
- iv. Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No.78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi v/s The Director General, Archaeological Survey of India, Janpath, New Delhi.
- v. RLR 1991(2), Jaipur Bench, Oriental Bank of Commerce....Appellant v/s Presiding Officer, Central Govt. Industrial Tribunal & others (23).
- vi. RLR 1991 (2), Jaipur Bench, Surya Prakash Sharma...Petitioner v/s Rajasthan Text Book Board, Jaipur & others (122)....Respondent.
- vii. Award dated 17.11.2008 passed by Industrial Tribunal-cum-Labour Court, Kanpur, in Industrial Dispute No. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s Suresh Chandra.

17. Following citations have been referred on behalf of opposite party:-

- i. Award dated 26.11.1986 passed by Central Administrative Tribunal, Ahmedabad in O.A. No. 33/86, Govind Kanji Parmar & others....Petitioner v/s Union of India & others....Respondents.
- ii. Award dated 30.10.1996 passed by Central Administrative Tribunal, Jodhpur Bench, Jodhpur in O.A. No.331 to 334/1993, Devi Singh & others...petitioners v/s Union of India & others....Respondents.
- iii. Award dated 18.1.2001 passed by Central Government Industrial Tribunal Cum Labour Court, Jaipur in CGIT case No. B- 40/97 in Goverdhan Lal Meena v/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun.

18. It has been argued by the learned counsel for the applicant that applicant has completed continuous 240 days of service in every year but he has removed from service

by opposite party in violation of section 25-F, 25-G & 25-H of the Industrial Disputes Act, 1947. It has also been argued that contention of the opposite party is against the law that Archaeological Survey of India is not an 'Industry' within the meaning of section 2(j) of the Act. Against this it has been argued by learned counsel for the opposite party that Archaeological Survey of India is not an 'Industry' & there is no violation of section 25-F, G & H of the Act. It has also been argued that applicant was neither appointed nor any appointment letter was issued. There was no advertisement for recruitment. It has also been argued that applicant was engaged on part time contract for casual work of repair & soon after completion of the work engagement of the applicant was over. It has also been alleged that his engagement was on daily wage & as the work of repair of the wall was of temporary character hence, on account of end of job & none availability of further job the applicant himself had left the place of job. It has also been argued that whenever there is availability of work, workmen are engaged on daily wage basis for the job. Reference has been made by both the parties towards precedents submitted by them in favour of their respective claim.

19. Before issue no.1 is decided it appears desirable to take up issues 2, 3 & 4 for decision because decision of these issues are important & having relevance in decision of issue No.1.

Issue No. 2

20. This issue relates to violation of section 25-G of Industrial Disputes Act, 1947 in terminating the services of applicant. Section 25-G of Industrial Disputes Act, 1947 reads as under:-

"Section 25-G. Procedure for retrenchment.—Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman."

21. From perusal of the provision contained in section 25-G it appears that whenever in ordinary course of business a workman is required to be retrenched then the last person employed by the employer shall be retrenched first unless there is special reason for retrenchment of a person other than the last employed person. From perusal of statement of claim it is evident that in para 13 it has been alleged that there has been violation of section 25-G of Industrial Disputes Act, 1947 in terminating the services of the applicant & junior to the applicant was retained in service at the time of his removal but no one has been

named in statement of claim that who is the person junior to the applicant who was retained. In the affidavit also filed by applicant as evidence there is no mention of a person junior to him who was retained in the service at the time of his removal. In the cross examination of the applicant on page 2 this question has been placed before him & he has alleged that when he was removed at that time all other workmen were also removed. This statement of the applicant during cross examination obviously indicates that no one junior to him was retained & removal of all the workman together is also indicative of the fact of Cessation or completion of a particular work for which they are engaged. Here, it is also pertinent to note that it has been repeatedly argued by learned counsel for opposite party that in fact there has been no appointment, therefore, the question of removal of the applicant from employment does not arise. From the perusal of the cross examination of Sh. Brijraj Singh, Deputy Superintendent (Archaeology) it is clear that no assistance can be taken on this point from his cross examination. Based on above discussion, it is clear that the applicant has failed to prove that at the time of termination of the service of applicant workman, juniors to him were retained by the management in contravention of section 25-G of the I.D. Act. Issue No. 2 is accordingly decided in negative against the applicant.

Issue No. 3

22. This issue is to the effect that whether subsequent to the termination of the workman fresh workmen were engaged by the non-applicant management in violation of section 25-H of the I.D. Act. For convenience provision of Section 25-H is reproduced below which reads as under:-

"Sec. 25-H. Re-employment of retrenched workmen—

Where any workmen are retrenched, and the employer purposes to take into his employ any persons he shall, in such manner as may be prescribed, give an opportunity to the retrenched workmen who are citizens of India to offer themselves for re-employment, and such retrenched workmen, who offer themselves for re-employment shall have preference over other persons.

23. The above mentioned section 25-H provides that a retrench employee shall have preference in appointment over rest, if management, intends to employ a workman & the management is under an obligation to give opportunity to retrench workman so that he can offer himself for employment. If opportunity is not given by management it will amount to violation of section 25-H of I.D. Act. para 14 of statement of claim indicates that after termination of the services of applicant new appointments were made without preference given to applicant. In reply to para 14 of statement of claim non-applicant has denied the appointment. There is no documentary evidence on record about new appointment. Para 6 of affidavit of applicant

filed in evidence indicates that new appointment were made with no preference to applicant but in cross-examination applicant has admitted that in his affidavit & statement of claim he has not alleged that after has removal who was appointed & when. The applicant has also admitted that in statement of claim also he has not given detail of newly appointed persons. In para 11 of affidavit of Sh. Brijraj Singh witness for opposite part violation of section 25-G & H has been specifically denied. In cross examination of Sh. Brijraj Singh there is nothing significant to draw an inference about violation of section 25-H of I.D. Act. Based on above discussion & appreciation of evidence adduced by the parties I am of the view that the applicant has failed to prove the violation of section 25-H of the I.D. Act regarding appointment of fresh hands subsequent to termination of his service. Issue no. 3 is accordingly decided against the applicant.

Issue No. 4

24. This issue is to effect that whether establishment of the non-applicant Archaeological Survey of India is an Industry within the meaning of section 2(j) of the I.D. Act. A preliminary objection has been raised by non-applicant that establishment of the non-applicant is not covered under definition of 'Industry' as indicated in section 2(j) of the I.D. Act. Reliance has been placed by non-applicant on Award dated 18.1.2001 passed by Central Government Industrial Tribunal-cum-Labour Court, Jaipur in CGIT case No. B-40/97 in Goverdhan Lal Meena v/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun. Against this, it has been argued by learned counsel for the applicant that establishment of non-applicant is covered by the definition of 'Industry'. Reliance has been placed by non-applicant on Judgement & order dated 21.2.1978 in civil appeal No. 753-754(T) of 1975, Bangalore Water Supply & Sewerage Board etc.etc v/s A. Rajappa & others etc.etc., Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No. 78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi v/s The Director General, Archaeological Survey of India, Janpath, New Delhi & Award dated 17.11.2008 passed by Industrial Tribunal Cum Labour Court, Kanpur, In Industrial Dispute No. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s Suresh Chandra. I have very carefully gone through cases cited by both the parties. Judgement dated 9.6.03 by CGIT, Jabalpur has not been filed by opposite party.

25. In Award dated 18.1.2001 passed by Central Government Industrial Tribunal Cum Labour Court, Jaipur in CGIT case No. B-40/97 in Goverdhan Lal Meena v/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun, cited by learned counsel for the opposite party it has been held in decision of issue No. 4 that provision of I.D. Act, 1947 apply to the case. Issue

No. 4 has dealt with the fact that provisions of I.D. Act. apply to the opposite party or not. Cases cited by learned counsel for the applicant indicate that Archaeological Survey of India is covered within the definition of 'Industry' as provided in section 2(j) of the I.D. Act. In Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No.78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi v/s The Director General, Archaeological Survey of India, Janpath, New Delhi, discussing the case of Judgement & order dated 21.2.1978 in civil appeal No. 753-754(T) of 1975, Bangalore Water Supply & Sewerage Board etc.etc v/s A. Rajappa & others etc.etc., it has been held by the CGIT, Delhi that Archaeological Survey of India is an 'Industry'. In Award dated 17.11.2008 passed by Industrial Tribunal-cum-Labour Court, Kanpur, in Industrial Dispute No.9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s Suresh Chandra, it has been held by CGIT, Kanpur that Archaeological Survey of India is an 'Industry'. From decision of the cases cited on behalf of both the parties & from the fact & circumstances of the present case, I am of the view that establishment of non-applicant Archaeological Survey of India is an 'Industry' within the meaning of section 2(J) of Industrial Disputes Act, 1947. Issue No. 4 is accordingly decided in affirmative against the non-applicant.

Issue No.1

26. This issue is to the effect whether the workman had worked for more than 240 days as daily wager during period 25.5.03 to 30.8.06 preceding twelve months from the date of his alleged termination & whether his service was terminated in violation of section 25-F of the Act? It has been argued by learned counsel for the applicant & has also been alleged in the written argument that the applicant has worked for more than 240 days as daily wager during period of 12 months immediately preceding the date of termination on 30.8.06 & termination of the services of applicant is in violation of section 25-F of Industrial Disputes Act, hence, the order of termination is fit to be set aside with continuity in service along with back wages. Against this, it has been argued by the learned counsel for the opposite party & has also been alleged in the written argument that applicant was not appointed by non-applicant, no appointment letter was issued, there was no advertisement for any appointment. It has also been argued that applicant was engaged on daily wages basis for repair of the walls of the fort which is a work of temporary nature. It has also been argued that applicant voluntarily left the place of work on account of none availability of work. It has also been said that on availability of work engagement is made on daily wage basis for the period of work only & provision of section 25-F is not attracted in the case of applicant. It has also been alleged that in view of case of

the applicant covered under section 2(oo) (bb) of the I.D. Act, compliance of provision of section 25-F is not required.

27. According to statement of claim applicant was appointment on daily wages on 25.5.03 & was terminated on 30.8.06 without notice or pay in lieu of notice or retrenchment compensation in violation of section 25-F of I.D. Act. What was the post held by the applicant during employment has not been alleged in statement of claim. About the nature of the work the applicant has alleged that whatever work was assigned by the opposite party applicant was performing that work. It has also been alleged that his engagement was neither for a fix work nor for a fix period. The applicant has alleged that he has worked for more than 240 days in every year. In affidavit filed in evidence in support of above statement of claim the applicant has repeated the allegation of statement of claim. No other co-worker has been produced as witness in evidence to support the allegation of statement of claim. In written statement it has been specifically denied by opposite party that applicant has worked for more than 240 days in a year instead it has been alleged that applicant has not worked for 240 days in any of the year. Sh. Brijraj Singh has specifically denied in para 3 of his affidavit that the applicant has worked for 240 days in any of the year. In above fact & circumstances, the burden of proof lies on applicant to prove that he has worked for more than 240 days in a year immediately preceding the date of his termination on 30.8.06 as alleged in statement of claim. The applicant has alleged in his cross examination that he has not stated in his affidavit in evidence or in statement of claim that for how many days he has worked in any corresponding year. He has admitted that he has filed document w-1 & in w-1 nature of work has been mentioned for which he was engaged & in w-1 it has also been mentioned that the nature of work includes 'special repair work' & such mention in w-1 is correct. Thus, it shall appear that two documents relating to total number of days of work has been filed by the applicant which is w-1 & w-2. W-2 is the document which appeared to be prepared by workman whereas w-1 is the document which appears to be reply submitted by management during conciliation proceedings. From document w-2 if taken into consideration for calculating the period of 240 days immediately preceding the date of termination on 30.8.06 then total number of days on which the workman has worked between 30.8.05 to 30.8.06 comes out to be 170 days. From document w-1 it comes out to be 233 days but lacks continuity. Thus, workman has failed to prove that he has continuously worked for more than 240 days in the year immediately preceding the date of his termination. It has also appear from both the documents w-1 & w-2 that there is no continuous work in the year.

28. Document regarding period & corresponding working days filed by management on order of the tribunal

passed on application of the applicant provides following details:—

Period of work	Number of working days.
25.5.2003 to 24.6.2003	27
25.7.2003 to 24.8.2003	09
25.8.2003 to 1-9-2003	08
13.4.2004 to 12.5.2004	27
15.5.2004 to 14.6.2004	27
9.6.2004 to 9.7.2004	24
18.7.2004 to 27.7.2004	09
11.7.2004 to 10.8.2004	19
12.8.2004 to 11.9.2004	27
13.9.2004 to 12.10.2004	28
14.10.2004 to 31.10.2004	16
1.11.2004 to 1.12.2004	26
3.12.2004 to 2.1.2005	27
4.1.2005 to 3.2.2005	28
6.2.2005 to 8.3.2005	28
9.3.2005 to 17.3.2005	09
19.3.2005 to 13.4.2005	24
6.6.2005 to 6.7.2005	28
8.10.2005 to 7.11.2005	28
8.11.2005 to 8.12.2005	29
10.11.2005 to 9.1.2006	28
11.1.2006 to 10.2.2006	29
12.2.2006 to 14.3.2006	28
9.6.2006 to 7.7.2006	28
Total number of days between 30.8.05 to 30.8.06	170 days.

29. The statement of above table submitted by opposite party regarding statement of work done by workman indicates that from the date of termination on 30.8.06 applicant has worked only for 170 days in a year immediately preceding the date of termination on 30.8.06. Thus, it is evident that the workman has not worked continuously for 240 days immediately preceding the date of termination. From the above discussion it is clear that applicant has failed to prove that he has worked more than 240 days immediately preceding the date of termination. From the entire cross examination of Sh. Brijraj Singh there appears nothing to derive in favour of applicant that he has worked for more than 240 days in a year preceding the date of termination. From the above discussion it is clear that applicant has failed to prove that he has continuously worked for more than 240 days in a year immediately preceding the date of his termination.

30. As far as the question of violation of section 25-F of Industrial Dispute is concerned it has been argued by the learned counsel for the applicant that there has been violation of section 25-F in terminating the services of the applicant, against this learned counsel for the opposite party has argued that there is no violation of section 25-F of I.D. Act & section 25-F does not apply in the case of applicant who was neither employed nor termination & his engagement has been only for specific period & specific work & he has left the workplace on his own accord. It has also been argued that as the question of terminating the services of the applicant does not arise, because he was not given any employment & there was no advertisement for employment for employment, hence, section 25-F does not apply to the case of the applicant. Section 25-F reads as under:—

"25-F. Conditions precedent to retrenchment of workmen.—No workman, employed in any Industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

- (a) The workman has been given on month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;
- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service) or any part thereof in excess of six months; and
- (c) notice in the prescribed manner is served on the appropriate Government (or such authority as may be specified by the appropriate Government by notification in the Official Gazette.)

31. Continuous service as indicated in section 25-F(1) has been defined in section 25-B(1) (ii) which reads as under:—

Section 25-B. Definition of continuous service.——
For the purposes of this Chapter——

- (1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman.
- (2) where a workman is not in continuous service within the meaning of Clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer——

(a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than——

- (i) one hundred and ninety days in the case of a workman employed below ground in a mine; and
- (ii) two hundred and forty days, in any other case;

32. Section 2 (oo) provides meaning of retrenchment which reads as under:—

"2(oo)——"retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as punishment inflicted by way of disciplinary action but does not include——

- (a) Voluntary retirement of the workman; or
- (b) Retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contained a stipulation in that behalf; or
- (bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or
- (c) termination of the service of a workman on the ground of continued ill-health;

33. In 2006 Supreme Court cases (L&S) 38, Surendrangar District Panchayat.....Appellant V/s Dahyabhai Amarsinh.....Respondent, taking together & analyzing the integrated impact of section 2(oo), section 25-B & section 25-F in paragraph 7 page 43, it has been held by Hon'ble Supreme Court, ".....To attract provision of Section 25-F, the workman claiming protection under it, has to prove that there exists relationship of employer, and employee; that he is a workman within the meaning of section 2(s) of this Act; the establishment in which he is employed is an industry within the meaning of the Act and he must have put in not less than one year of continuous service as defined by section 25-B under the employer, These conditions are cumulative. If any of these conditions is missing the provisions of section 25-F will not be attracted. To get relief from the court the workman has to establish that he has right to continue in service and that this service has been terminated without complying with the provisions of section 25-F of the Act. The section postulates three conditions to be fulfilled by an employer for getting a valid retrenchment, namely:-

- (i) one month's clear notice in writing indicating the reasons for retrenchment or that the workman has

been paid wages for the period of notice in lieu of such notice;

- (ii) payment of retrenchment compensation which shall be equivalent to 15 days' average pay for every completed year of continuous service or any part thereof, in excess of six months;
- (iii) a notice to the appropriate Government in the prescribed manner.

34. Looking into the above provisions & the law laid down by the Hon'ble Supreme Court to attract the provision of section 25-F, it is clear that the applicant has failed to prove that he has worked continuously for more than 240 days in calendar year immediately preceding the date of his termination, thus provision of section 25-F is not attracted in the case of applicant. From above discussion, I am of the view that the applicant has not worked continuously for more than 240 days as daily wage immediately preceding 12 months from the date of his alleged termination on 30.8.06 & his services were not terminated in violation of section 25-F of Industrial Disputes Act. Issue No. 1 is accordingly decided in negative against the applicant.

35. It has been argued by the learned counsel for the applicant that even if section 25-F is not attracted in case of applicant, he is entitled to the benefits of section 25-G & 25-H which are independent of section 25-F. Reliance has been placed on RLR 1991(2), Jaipur Bench, Oriental Bank of Commerce...Appellant v/s Presiding Officer, Central Govt. Industrial Tribunal & others & RLR 1991 (2), Jaipur Bench, Surya Prakash Sharma....Petitioner v/s Rajasthan Text Book Board, Jaipur & other (122).....Respondent. Against this it has been argued by learned counsel for opposite party that provision of section 25-G and 25-H is not attracted in the case of applicant. I have carefully gone through both the above reported cases.

36. In case of Oriental Bank of Commerce v/s Presiding Officer respondent 2 was employed in the bank of petitioner from 23.5.85 to 28.5.85 for a period of 79 days. He was said to be appointed for leave period only & his engagement came to end after expiry of period of leave. The respondent raised industrial dispute relating to section 25-G & 25-H which was referred for adjudication. After the evidence of both the parties tribunal came to the conclusion that there was violation of section 25-G & section 25-H, hence, respondent was directed to be reinstated & it was also directed that he will be entitled to pay from the date of joining because respondent was said to be on the job in some other place. On the basis of evidence tribunal came to conclusion that management had failed to indicate that who was on leave in whose place respondent was employed during leave vacancy, hence, this fact was not admitted by tribunal that engagement of respondent was for the period of leave vacancy. It was admitted by the witness of the management that when respondent was removed from

service employee Sh. Virendra Singh junior to the respondent was working. It was also admitted by management witness that after removal of respondent Sh. Mulan Rasool & Sh. Narendra Bhatt was appointed on the post of peon but respondent was not given opportunity. Thus, there was violation of section 25-G & 25-H. Petition against the order of tribunal was dismissed by Division Bench of Hon'ble High Court & award of the tribunal was confirmed.

37. In RLR 1991(2), Jaipur Bench, Surya Prakash Sharma...Petitioner v/s Rajasthan Text Book Board, Jaipur & others (122).....Respondent, it has been held by Hon'ble High Court that section 25-G & 25-H & 25-F are not dependent of each other & section 25-G & 25-H are not dependent on section 25-F. It has also been held that section 25-G & 25-H are applicable irrespective of the fact that the workman has completed 240 days of service or not. It has been further held that rule 76 to 78 of Industrial Dispute Rules, 1957 are independent of each other & mandatory in nature. Violation of these rules will give a cause of action in favour of workman to claim compensation, damages & re-employment. To derive the benefits of these rules continuous service is not necessary & workmen not having completed 240 days of service are also entitled to the benefits of Rule 76 to 78. In this case petitioner Sh. Suryaprakash Sharma was retrenched from service before completion of 240 days & was not entitled for the benefits u/s 25 of I.D. Act. The only question involved in this case was about applicability of section 25-H of I.D. Act read with Rule 77 & 78. The case of the respondent was that after discharge of petitioner on 1.11.88 they have employed few persons although persons who employed were discharged on 19.8.89. The petition of the petitioner was allowed & he was held entitled to claim wages by way of compensation for the period during which his junior remain in employment.

38. In 1976 LLJ, Supreme Court 478, State Bank of India....Appellant v/s N. Sundaramoney...Respondent, it has been held by Hon'ble Supreme Court that read with section 25-B(2) if provision of section 25-F of Industrial Dispute Act is attracted in case of the workman, he cannot be retrenched without payment of compensation at the time of retrenchment as prescribed therein. It is pertinent to mention that facts & circumstances of the present case are different comparing to the facts of State Bank of India v/s N. Sundaramoney, hence, law laid down by Hon'ble Supreme Court in State Bank of India v/s N Sundaramoney is not attracted in the present case.

39. From decision of issue No. 2 & 3 it is clear that applicant is not entitled to the benefit for violation of section 25-G & 25-H of Industrial Dispute Act because violation of these two sections have not been proved by the applicant. It is also clear from the evidence on record that no seniority

list is in existence as the case of opposite party is that there was no employment in respect of applicant & he was only engaged casually as & when there was existence of work. Applicant has not proved his appointment or termination by filing any documentary evidence in this behalf who was engaged as daily wage. It has been held by Hon'ble Supreme Court in 2006 Supreme Court Cases (L&S) 38, Surendranagar District Panchayat....Appellant V/s Dahyabhai Amarsinh....Respondent, in para 18 of the judgement in relation of section 25-G & section 25-H as under:-

".....In the absence of regular employment of the workmen, the appellant was not expected to maintain seniority list of the employees engaged on daily wages and in the absence of any proof by the respondent regarding existence of the seniority list and his so-called seniority, no relief could be given to him for non-compliance with provisions of the Act. The courts could have drawn adverse inference against the appellant only when seniority list was proved to be in existence and then not produced before the court. In order to entitle the court to draw inference unfavourable to the party, the court must be satisfied that evidence is in existence and could have been proved." Finding of Hon'ble Supreme Court in 2006 Supreme Court Cases (L&S) 38, Surendranagar District Panchayat....Appellant V/s Dahyabhai Amarsinh....Respondent, is relevant & applies to the case of applicant.

40. Bases on the findings related to issue No. 1 to 4 & from the discussions as above, I am of the view that applicant is not entitled to any relief as prayed in the statement of claim & action of the management of Archaeological Survey of India in terminating the services of the workman Sh. Kamlesh Mali *w.e.f.* 30.8.06 without following the provisions of section 25-F, 25-G & 25-H of Industrial Disputes Act, 1947 is legal & justified.

41. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 25 जून, 2015

का.आ. 1304.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आर्कियोलॉजिकल सर्वे ऑफ इंडिया राजस्थान के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ सं० 48/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 24.06.2015 को प्राप्त हुआ था।

[सं० एल-42012/27/2007-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 25th June, 2015

S.O. 1304.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 48/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Archaeological Survey of India, Rajasthan and their workmen, which was received by the Central Government on 24.06.2015.

[No. L-42012/27/2007-IR (DU)]
P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, JAIPUR

BHARAT PANDEY, Presiding Officer

I.D. 48/2007

Reference No. L-42012/30/2007-IR (DU) dated 23.07.2007

Sh. Mitha Lal Mali
S/o Shri Sita Ram Mali
R/o 6 Ghar, Ramsingh Pura
Post Sherpur,
Sawai Madhopur (Rajasthan)

V/s

The Regional Officer
Archaeological Survey of India
Ranthambhor Durg,
Sawai Madhopur (Rajasthan).

For the Applicant : Shri M.F. Beig, Advocate.
For the Non-applicant : Sh. T.P. Sharma, Advocate.

AWARD

18.05.2015

1. The Central Government in exercise of the powers conferred under clause (d) of Sub Section 1 and 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:—

"Whether the action of the management of Archaeological Survey of India, in terminating the services of their workman Shri Mitha Lal, w.e.f. 30.08.2006, without following the provisions of Sections 25F, 25G and 25H of the Industrial Dispute Act, 1947 is legal and justified? If not, to what relief the workman is entitled to?"

2. The fact of the case in brief is that the applicant workman was appointed as daily wager on 19.08.03. He was discharging his duty since appointment honestly and there was no complaint by opposite party against his work.

Whatever work was assigned to the applicant he completed that work to best of his ability. Applicant was never served with any notice and no charge was ever proved against him.

3. He was appointed on daily wage but his period of appointment or nature of work was not fixed. The work for which he was appointed by opposite party is still existing and the nature of work is permanent. The applicant is 'workman' and the opposite party is 'employer' according to the definition of 'workman' and 'employer' provided in Industrial Disputes Act, 1947. The applicant had worked for more than 240 days in a calendar year immediately preceding the date of termination and his services were terminated on 30.08.06 without giving any notice or any payment in lieu of notice or retrenchment compensation in violation of section 25-F of Industrial Disputes Act, 1947. His termination is unfair labour practice and victimisation adopted by opposite party.

4. Before the termination of the workman seniority list was neither prepared nor published by the opposite party which is violation of Rule 77 of Industrial Disputes Rules, 1958. At the time of termination of the service workmen junior to the applicant were retained in service by the opposite party in violation of section 25-G of Industrial Disputes Act, 1947. The opposite party has made new appointment after termination of the services of the applicant workman but no priority was given to the applicant which is violation of section 25-H of Industrial Disputes Act, 1947 and Rule 78 of Industrial Disputes Rule, 1958. It has been further alleged by the applicant that applicant requested the opposite party to take the applicant in his employment but he was not taken back and due to non co-operation of opposite party conciliation also failed before the Conciliation Officer. The opposite party has accepted before the Conciliation Officer that applicant was kept on work and work was taken from him, hence, the relation of employer and workman has not been denied by the opposite party but to escape from the liability of illegal termination it has been denied that opposite party is 'Industry' within the meaning of definition provided in Industrial Disputes Act, 1947. The true position is that according to the activities and work the opposite party is an 'industry' according to the definition of industry provided under Industrial Disputes Act, 1947. The provisions of Industrial Disputes act, 1947 have not been followed by opposite party, hence, the termination of the services of the workman is illegal and unfair.

5. It has been further alleged that allegation of the opposite party before the Conciliation Officer is that the applicant workman was absent from duty from 15.03.2006 to 08.06.2006 but workman was not given any show cause notice. Neither any charge sheet was served upon him regarding absence from place of duty nor any charge was proved. The applicant had made his stand clear before the

management that he has not remained absent during above said period and instead of absence he has been working in that period. The applicant had completed more than two years of service and he was demanding from the opposite party to declare him semi permanent employee. As a result of above demand of the applicant the opposite party instead of making him semi permanent terminated the services of the applicant. The applicant is jobless since the date of termination. It is, therefore, requested that termination order dated 30.08.06 be declared illegal and applicant reinstated with all pay and emoluments along with continuity in service.

6. In reply statement in para 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 of the statement of claim have been specifically denied. In additional reply it has been alleged in para 2 that the applicant labourer was not appointed by the opposite party and he was engaged as casual labourer for carrying out casual work on the basis of part time contract and such engagement was coming to end immediately after completion of the work. It has also been alleged that the applicant labourer has never completed 240 days in any year and applicant is under an obligation to prove this fact the document. Statement of para 5 of statement of claim has been said to be baseless and nature of the work for which applicant was engaged is alleged to be casual. Against para 7 it has been alleged that to succeed in his sinister design applicant has fabricated the statement.

7. It has been alleged against para 8 of the statement of claim that applicant was called for a fixed works and his services were coming to end after completion of the work. Relation between applicant and opposite party as workman and employer has been specifically denied against para 9 of the statement of claim and has been alleged that since he was never appointed the question of such relationship does not arise. The applicant does not fall within the definition of workman and the department of the opposite party does not fall within the definition of Industry. Applicant was never engaged permanently and he was called only when there was work. He was neither appointed on any post after following the rules of appointment nor any appointment letter was issued to him, therefore, question of termination of his services does not arise. It has been alleged in para 11 of reply that it is pertinent to note that applicant was not removed from the institution of opposite party and the fact is that the work was over hence, his services automatically came to an end. It was not necessary to give notice to the applicant because such notice is issued only to such workman who permanently work for a period of more than 240 days and the department is not satisfied with work of such workman, in that event such workman may be removed after serving one months notice. In case of applicant after completion of work he himself had gone elsewhere.

8. Against para 13 of statement of claim it has been alleged that workmen like applicant are not given any

appointment letter neither they are deemed regular workmen of the department. Workman like applicant are engaged on daily wage basis according to need of a particular work for its execution and they are removed after completion of work or at the end of financial year or on other technical ground on suspension or stoppage of work. Against para 14 of statement of claim it has been alleged that nature of the new recruitment by the department whose nature is permanent is done by following the legal procedure and selection is made out of person who posses the prescribed eligibility. Applicant was not appointed on any vacant post under grade 'D'. At the time of engaging the applicant workman he was briefed orally that he is engaged against a specific work and nature of the work is purely temporary and casual in which applicant is not entitled to derive benefit of provisions of Industrial Disputes Act. The allegation of the applicant is wrong that he was removed out of animosity. In absence of casual work the services of the workman automatically comes to an end. In last paragraph of the reply it has been prayed that order of dismissal be passed against the statement of claim.

9. In rejoinder dated 03.06.2010 filed by applicant, statement of claim has been reiterated and statement of reply submitted by the opposite party has been alleged to be wrong.

10. In preliminary objection against statement of claim filed by opposite party it has been alleged that applicant was neither given any appointment nor there was any sanctioned or vacant post. Department of the opposite party is not covered within the definition of industry as provided in section 2(j) of Industrial Disputes Act. In B-40/97, Gobardhan Lal Meena v/s Archaeological Survey of India, it has been held by the Hon'ble Tribunal in its award dated 18.1.2001 that Archaeological Survey of India is not covered within the definition of industry. Industrial Tribunal, Jabalpur in its award dated 9.6.2003 has held that Archaeological Survey of India is not an 'Industry' within the meaning of section 2(j) of Industrial Disputes Act. It has also been alleged that the applicant was engaged for completion of casual work for fixed period of time and he has not worked for 240 days in any of the year, hence, he is not entitled to the benefit of Industrial Dispute Act. It has also been alleged that the applicant left the work on his own even before the completion of the work, hence, he is not entitled to any relief.

11. Against preliminary objection it has been alleged by the applicant that preliminary objections are not tenable at belated stage. It has also been alleged that various precedents it has been alleged that preliminary objections are to be decided along with other issues on merits. It has also been alleged that preliminary objections are evidence based, hence, opposite party be directed to file the reply to the statement of claim.

12. Under mentioned issues were framed on 27.7.2011 by the then learned Presiding Officer of the Tribunal, based on pleadings of both the parties:—

(1) Whether the workman had worked for more than 240 days as daily wager during period 19.8.03 to 30.8.06 preceding twelve months from the date of his alleged termination and whose service was terminated in violation of section 25-F of the Act?

(2) At the time of terminating the service of the workman the juniors person to him were retained by the management in contravention of section 25-G of the I.D. Act?

(3) Whether subsequent to the termination of the workman fresh hands were engaged by the non-applicant management in violation of section 25-H of the I.D. Act?

(4) Whether non-applicant establishment is an 'industry' within the meaning of section 2-J of the I.D. Act?

13. Applicant has filed document W-1 which is reply of opposite party before conciliation proceeding, affidavit of the applicant in evidence and statement of number of working days in calendar year 2003, 2004, 2005 & 2006. Applicant has been cross-examination by opposite party on his affidavit.

14. In documentary evidence, opposite party has filed statement of payment made to applicant & other workmen which is 24 page. This document has been filed on direction of tribunal given on application of the applicant. Opposite party has filed affidavit of Sh. Brijraj Singh in evidence. Sh. Brijraj Singh has been cross examined on 28.10.14 by applicant side.

15. I have heard the argument of learned counsel for both the parties & perused the file. Written argument have been filed by both the parties which is on record.

16. Following citations have been referred on behalf of applicant:—

- (i) 1976 LLJ, Supreme Court 478, State Bank of India.....Appellant v/s N. Sundaramoney..... Respondent.
- (ii) Judgement and order dated 21.2.1978 in civil appeal No. 753-754(T) of 1975, Bangalore Water Supply and Sewerage Board etc.etc. v/s A. Rajappa and others etc.etc.
- (iii) 1983 LAB.I.C. 1629 (Supreme Court), D.P. Maheshwari...Appellant v/s Delhi Administration & others.....Respondents.
- (iv) Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No. 78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi v/s The Director General, Archaeological Survey of India, Janpath, New Delhi.

(v) RLR 1991(2), Jaipur Bench, Oriental Bank of Commerce.....Appellant v/s Presiding Officer, Central Govt. Industrial Tribunal and others (23).

(vi) RLR 1991 (2), Jaipur Bench, Surya Prakash Sharma.....Petitioner v/s Rajasthan Text Book Board, Jaipur and other (122).....Respondent.

(vii) Award dated 17.11.2008 passed by Industrial Tribunal-Cum-Labour Court, Kanpur, in Industrial Dispute No. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s Suresh Chandra.

17. Following citations have been referred on behalf of opposite party:—

(i) Award dated 26.11.1986 passed by Central Administrative Tribunal, Ahmedabad in O.A. No. 33/86, Govind Kanji Parmar and others.....Petitioner v/s Union of India and others.....Respondents.

(ii) Award dated 30.10.1996 passed by Central Administrative Tribunal, Jodhpur Bench, Jodhpur in O.A. No. 331 to 334/1993, Devi Singh and others.....petitioners v/s Union of India and others.....Respondents.

(iii) Award dated 18.1.2001 passed by Central Government Industrial Tribunal-Cum-Labour Court, Jaipur in CGIT case No. B-40/97 in Goverdhan Lal Meena v/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun.

18. It has been argued by the learned counsel for the applicant that applicant has completed continuous 240 days of service in every year but he has removed from service by opposite party in violation of section 25-F, 25-G & 25-H of the Industrial Disputes Act, 1947. It has also been argued that contention of the opposite party is against the law that Archaeological Survey of India is not an 'Industry' within the meaning of section 2(j) of the Act. Against this it has been argued by learned counsel for the opposite party that Archaeological Survey of India is not an 'Industry' and there is no violation of section 25-F, G & H of the Act. It has also been argued that applicant was neither appointed nor any appointment letter was issued. There was no advertisement for recruitment. It has also been argued that applicant was engaged on part time contract for casual work of repair and soon after completion of the work engagement of the applicant was over. It has also been alleged that his engagement was on daily wage and as the work of repair of the wall was of temporary character hence, on account of end of job and none availability of further job the applicant himself had left the place of job. It has also been argued that whenever there is availability of work, workmen are engaged on daily wage basis for the job. Reference has been made by both the parties towards precedents submitted by them in favour of their respective claim.

19. Before issue No. 1 is decided it appears desirable to take up issues 2, 3 & 4 for decision because decision of these issues are important and having relevance in decision of issue No. 1.

Issue No. 2

20. This issue relates to violation of section 25-G of Industrial Disputes Act, 1947 in terminating the services of applicant. Section 25-G of Industrial Disputes Act, 1947 reads as under:—

"Section 25-G. Procedure for retrenchment.—Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman."

21. From perusal of the provision contained in section 25-G it appears that whenever in ordinary course of business a workman is required to be retrenched then the last person employed by the employer shall be retrenched first unless there is special reason for retrenchment of a person other than the last employed persons. From perusal of statement of claim it is evident that in para 13 it has been alleged that there has been violation of section 25-G of Industrial Disputes Act, 1947 in terminating the services of the applicant & junior to the applicant was retained in service at the time of his removal but no one has been named in statement of claim that who is the person junior to the applicant who was retained. In the affidavit also filed by applicant an evidence there is no mention of a person junior to him who was retained in the service at the time of his removal. In the cross-examination of the applicant on page 2 this question has been placed before him & he has alleged that when he was removed at that time all other workmen were also removed. This statement of the applicant during cross-examination obviously indicates that no one junior to him was retained & removal of all the workman together is also indicative of the fact of Cessation or completion of a particular work for which they are engaged. Here, it is also pertinent to note that it has been repeatedly argued by learned counsel for opposite party that in fact there has been no appointment, therefore, the question of removal of the applicant from employment does not arise. From the perusal of the cross-examination of Sh. Brijraj Singh, Deputy Superintendent (Archaeology) it is clear that no assistance can be taken on this point from his cross examination. Bases on above discussion, it is clear that the applicant has failed to prove that at the time of termination of the service of applicant workman, juniors to him were retained by the management in contravention of section 25-G of the I.D. Act. Issue No. 2 is accordingly

decided in negative against the applicant.

Issue No. 3

22. This issue is to the effect that whether subsequent to the termination of the workman fresh workmen were engaged by the non-applicant management in violation of section 25-H of the I.D. Act. For convenience provision of section 25-H is reproduced below which reads as under:

"Sec. 25-H. Re-employment of retrenched workmen—Where any workmen are retrenched, and the employer purposes to take into his employ any persons he shall, in such manner as may be prescribed, give an opportunity to the retrenched workmen who are citizens of India to offer themselves for re-employment, and such retrenched workmen, who offer themselves for re-employment shall have preference over other persons.

23. The above mentioned section 25-H provides that a retrench employee shall have preference in appointment over rest, if management, intends to employ a workman & the management is under an obligation to give opportunity to retrench workman so that he can offer himself for employment. If opportunity is not given by management it will amount to violation of section 25-H of I.D. Act, Para 14 of statement of claim indicates that after termination of the services of applicant new appointments were made without preference given to applicant. In reply to para 14 of statement of claim non-applicant has denied the appointment. There is no documentary evidence on record about new appointment. Para 6 of affidavit of applicant filed in evidence indicates that new appointments were made with no preference to applicant but in cross-examination applicant has admitted that in his affidavit & statement of claim he has not alleged that after his removal who was appointment & when. The applicant has also admitted that in statement of claim also he has not given detail of newly appointed persons. In para 11 of affidavit of Sh. Brijraj Singh witness for opposite party violation of section 25-G & H has been specifically denied. In cross-examination of Sh. Brijraj Singh there is nothing significant to draw an inference about violation of section 25-H of I.D. Act. Based on above discussion & appreciation of evidence adduced by the parties I am of the view that the applicant has failed to prove the violation of section 25-H of the I.D. Act. regarding appointment of fresh hands subsequent to termination of his service. Issue no. 3 is accordingly decided against the applicant.

Issue No. 4

24. This issue is to the effect that whether establishment of the non-applicant Archaeological Survey of India is an Industry within the meaning of section 2(j) of the I.D. Act. A preliminary objection has been raised by non-applicant that establishment of the non-applicant is not covered under definition of 'Industry' as indicated in section 2(j) of the

I.D. Act. Reliance has been placed by non-applicant on Award dated 18.1.2001 passed by Central Government Industrial Tribunal cum Labour Court, Jaipur in CGIT case no. B-40/97 in Goverdhan Lal Meena v/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun. Against this, it has been argued by learned counsel for the applicant that establishment of non-applicant is covered by the definition of 'Industry'. Reliance has been placed by non-applicant on Judgement & order dated 21.2.1978 in civil appeal no. 753-754(T) of 1975, Bangalore Water Supply & Sewerage Board etc. etc. v/s A. Rajappa & others etc. etc., Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No. 78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi v/s The Director General, Archaeological Survey of India, Janpath, New Delhi & Award dated 17.11.2008 passed by Industrial Tribunal-cum-Labour Court, Kanpur, in Industrial Dispute no. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s Suresh Chandra. I have very carefully gone through cases cited by both the parties. Judgement dated 9.6.03 by CGIT, Jabalpur has not been filed by opposite party.

25. In Award dated 18.1.2001 passed by Central Government Industrial Tribunal-cum-Labour Court, Jaipur in CGIT case no. B-40/97 in Goverdhan Lal Meena v/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun, cited by learned counsel for the opposite party it has been held in decision of issue no. 4 that provision of I.D. Act, 1947 apply to the case. Issue no. 4 has dealt with the fact that provisions of I.D. Act apply to the opposite party or not. Cases cited by learned counsel for the applicant indicate that Archaeological Survey of India is covered within the definition of 'Industry' as provided in section 2(j) of the I.D. Act. In Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. Act. No. 78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi v/s The Director General, Archaeological Survey of India, Janpath, New Delhi, discussing the case of Judgement & order dated 21.2.1978 in civil appeal no. 753-754(T) of 1975, Bangalore Water Supply & Sewerage Board etc. etc. v/s A. Rajappa & others etc. etc., it has been held by the CGIT, Delhi that Archaeological Survey of India is an 'Industry'. In Award dated 17.11.2008 passed by Industrial Tribunal-cum-Labour Court, Kanpur, in Industrial Dispute no. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s. Suresh Chandra, it has been held by CGIT, Kanpur that Archaeological Survey of India is an 'Industry'. From decision of the cases cited on behalf of both parties & from the fact & circumstances of the present case, I am of the view that establishment of non-applicant Archaeological Survey of India is an 'Industry' within the meaning of section 2(J) of Industrial Disputes Act, 1947. Issue no. 4 is accordingly decided in affirmative against the non-applicant.

Issue no. 1

26. This issue is to the effect that whether workman had worked for more than 240 days as daily wager during period 19.8.03 to 30.8.06 preceding twelve months from the date of his alleged termination & whether his service was terminated in violation of section 25-H of the Act? It has been argued by learned counsel for the applicant & has also been alleged in the written argument that the applicant has worked for more than 240 days as daily wager during period of 12 months immediately preceding the date of termination on 30.8.06 & termination of the services of applicant is in violation of section 25-F of Industrial Disputes Act, hence, the order of termination is fit to be set aside with continuity in service along with back wages. Against this, it has been argued by the learned counsel for the opposite party & has also been alleged in the written argument that applicant was not appointed by non-applicant, no appointment letter was issued, there was no advertisement for any appointment. It has also been argued that applicant was engaged on daily wage basis for repair of the walls of the fort which is a work of temporary nature. It has also been argued that applicant voluntarily left the place of work on account of non availability of work. It has also been said that on availability of work engagement is made on daily wage basis for the period of work only & provision of section 25-H is not attracted in the case of applicant. It has also been alleged that in view of case of the applicant covered under section 2(oo) (bb) of the I.D. Act, compliance of provision of section 25-F is not required.

27. According to statement of claim applicant was appointed on daily wage on 19.8.03 & was terminated on 30.8.06 without notice or pay in lieu of notice or retrenchment compensation in violation of section 25-F of I.D. Act. What was the post held by the applicant during employment has not been alleged in statement of claim. About the nature of the work of the applicant has alleged that whatever work was assigned by the opposite party applicant was performing that work. It has also been alleged that his engagement was neither for a fix work nor for a fix period. The applicant has alleged that he has worked for more than 240 days in every year. In affidavit filed in evidence in support of above statement of claim the applicant has repeated the allegation of statement of claim. No other co-worker has been produced as witness in evidence to support the allegation of statement of claim. In written statement it has been specifically denied by opposite party that applicant has worked for more than 240 days in a year instead it has been alleged that applicant has not worked for 240 days in any of the year. Sh. Brijraj Singh has specifically denied in para 3 of his affidavit that the applicant has worked for 240 days in any of the year. In above fact & circumstances, the burden of proof lies on applicant to prove that he has worked for more than 240 days in a year immediately preceding the date of his termination on 30.8.06 as alleged in statement of claim. The

applicant has alleged in his cross examination that he has not stated in his affidavit in evidence or in statement of claim that for how many days he has worked in any corresponding year. He has admitted that he has filed document W-1 & in W-1 nature of work has been mentioned for which he was engaged & in W-1 it has also been mentioned that the nature of work includes 'special repair work' & such mention in W-1 is correct. Thus, it shall appear that two documents relating to total number of days of work has been filed by the applicant which is W-1 & W-2. W-2 is the document which appeared to be prepared by workman whereas W-1 is the document which appears to be reply submitted by management during conciliation proceedings. From document W-2 if taken into consideration for calculating the period of 240 days immediately preceding the date of termination on 30.8.06 then total number of days on which the workman has worked between 30.8.05 to 30.8.06 comes out to be 171 days. From document W-1 it comes out to be 233 days but lacks continuity. Thus, workman has failed to prove that he has continuously worked for more than 240 days in the year immediately preceding the date of his termination. It shall also appear from both the documents W-1 & W-2 that there is no continuous work in the year.

28. Document regarding period & corresponding working days filed by management on order of the tribunal passed on application of the applicant provides following detail:—

Period of work	Number of working days
19.2.2003 to 20.3.2003	26
25.8.03 to 1.9.03	07
17.1.04 to 16.2.04	28
13.4.04 to 13.5.04	25
15.5.04 to 14.6.04	23
9.6.04 to 9.7.04	27
18.7.04 to 27.7.04	10
11.7.04 to 10.8.04	18
12.8.04 to 11.9.04	26
13.9.04 to 13.10.04	28
14.10.04 to 31.10.04	17
1.11.04 to 1.12.04	26
3.12.04 to 2.1.05	27
4.1.05 to 3.2.05	27
19.1.05 to 18.2.05	13
6.2.05 to 8.3.05	16
9.3.05 to 17.3.05	09
19.3.05 to 13.4.05	24
6.6.05 to 6.7.05	27
7.10.05 to 6.11.05	29

8.11.05 to 8.12.05	30
10.12.05 to 9.1.06	28
11.1.06 to 10.2.06	29
12.2.06 to 14.3.06	27
Total number of days between 30.8.05 to 30.8.06	143 days.

29. The statement of above table submitted by opposite party regarding statement of work done by workman indicates that from the date of termination on 30.8.06 applicant has worked only for 143 days in a year immediately preceding the date of termination on 30.8.06. Thus, it is evident that the workman has not worked continuously for 240 days immediately preceding the date of termination. From the above discussion it is clear that applicant has failed to prove that he has worked for more than 240 days immediately preceding the date of termination. From the entire cross examination Sh. Brijraj Singh there appears nothing to derive in favour of applicant that he has worked for more than 240 days in a year preceding the date of termination. From the above discussion it is clear that applicant has failed to prove that he has continuously worked for more than 240 days in a year immediately preceding the date of his termination.

30. As far as the question of violation of section 25-F of Industrial Dispute is concerned it has been argued by the learned counsel for the applicant that there has been violation of section 25-F in terminating the services of the applicant, against this learned counsel for the opposite party has argued that there is no violation of section 25-F of I.D. Act & section 25-F does not apply in the case of applicant who was neither employed nor terminated & his engagement has been only for specific period & specific work & he has left the workplace on his own accord. It has also been argued that as the question of terminating the services of the applicant does not arise, because he was not given any employment & there was no advertisement for employment, hence, section 25-F does not apply to the case of the applicant. Section 25-F reads as under:—

"25-F. Conditions precedent to retrenchment of workmen.— No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until:—

- (a) The workman has been given on month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu such notice, wages for the period of the notice:
- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every

completed year of continuous service) or any part thereof in excess of six months; and

- (c) notice in the prescribed manner is served on the appropriate Government (or such authority as may be specified by the appropriate Government by notification in the Official Gazette.)

31. Continuous service as indicated in section 25-F(1) has been defined in section 25-B(1) (ii) which reads as under:—

Section 25-B. Definition of continuous service.— For the purposes of this Chapter

(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman.

(2) where a workman is not in continuous service within the meaning of Clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer:—

- (a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than:—
- (i) one hundred and ninety days in the case of a workman employed below ground in a mine; and
- (ii) two hundred and forty days, in any other case;

32. Section 2 (oo) provides meaning of retrenchment which reads as under:—

"2(oo)-----"retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include—

- (a) Voluntary retirement of the workman; or
- (b) Retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or
- (bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or

- (c) termination of the service of a workman on the ground of continued ill-health;

33. In 2006 Supreme Court Cases (L&S) 38, Surendranagar District PanchayatAppellant V/s. Dahyabhai Amarsing Respondent, taking together & analyzing the integrated impact of section 2(oo), section 25-B section 25-F in paragraph 7 page 43, it has been held by Hon'ble Supreme Court, "..... To attract provisions of Section 25-F, the workman claiming protection under it, has to prove that there exists relationship of employer and employee; that he is a workman within the meaning of section 2(s) of the Act; the establishment in which he is employed is an industry within the meaning of the Act and he must have put in not less than one year of continuous service as defined by section 25-B under the employer. The conditions are cumulative. If any of these conditions is missing the provisions of section 25-F will not be attracted. To get relief from the court the workman has to establish that he has right to continue in service and that his service has been terminated without complying with the provisions of section 25-F of the Act. The section postulates three conditions to be fulfilled by an employer for getting a valid retrenchment, namely:—

- (i) one month's clear notice in writing indicating the reasons for retrenchment or that the workman has been paid wages for the period of notice in lieu of such notice;
- (ii) payment of retrenchment compensation which shall be equivalent to 15 days average pay for every completed year of continuous service or any part thereof, in excess of six months;
- (iii) a notice to the appropriate Government in the prescribed manner.

34. Looking into the above provisions & law laid down by the Hon'ble Supreme Court to attract the provision of section 25-F, it is clear that the applicant has failed to prove that he has worked continuously for more than 240 days in a calendar year immediately preceding the date of his termination, thus, provision of section 25-F is not attracted in the case of applicant. From above discussion, I am of the view that the applicant has not worked continuously for more than 240 days as daily wage immediately preceding 12 months from the date of his alleged termination on 30.08.06 & his services were not terminated in violation of section 25-F of Industrial Disputes Act. Issue No. 1 is accordingly decided in negative against the applicant.

35. It has been argued by the learned counsel for the applicant that even if section 25-F is not attracted in case of applicant, he is entitled to the benefits of section 25-G & 25-H which are independent of section 25-F. Reliance has been placed on RLR 1991(2), Jaipur Bench, Oriental Bank of Commerce Appellant v/s. Presiding Officer, Central Govt. Industrial Tribunal & others & RLR 1991 (2), Jaipur

Bench, Surya Prakash SharmaPetitioner v/s. Rajasthan Text Book Board, Jaipur & other (122).....Respondent. Against this it has been argued by learned counsel for opposite party that provision of section 25-G & 25-H is not attracted in the case of applicant. I have carefully gone through both the above reported cases.

36. In case of Oriental Bank of Commerce v/s. Presiding Officer respondent 2 was employed in the bank of petitioner from 23.5.85 to 28.5.85 for a period of 79 days. He was said to be appointed for leave period only & his engagement came to end after expiry of period of leave. The respondent raised industrial dispute relating to section 25-G & 25-H which was referred for adjudication. After the evidence of both the parties tribunal came to the conclusion that there was violation of section 25-G & section 25-H, hence, respondent was directed to be reinstated & it was also directed that he will entitled to pay from the date of joining because respondent was said to be on the job in some other place. On the basis of evidence tribunal came to conclusion that management has failed to indicate that who was on leave in whose place respondent was employed during leave vacancy, hence, this fact was not admitted by tribunal that engagement of respondent was for the period of leave vacancy. It was admitted by the witness of the management that when respondent was removed from service employee Sh. Virendra Singh junior to the respondent was working. It was also admitted by management witness that after removal of respondent Sh. Mulan Rasool & Sh. Narendra Bhatt were appointed on the post of peon but respondent was not given opportunity. Thus, there was violation of section 25-G & 25-H. Petition against the order of tribunal was dismissed by Division Bench of Hon'ble High Court & award of the tribunal was confirmed.

37. In RLR 1991 (2), Jaipur Bench, Surya Prakash SharmaPetitioner v/s. Rajasthan Text Book Board, Jaipur & others (122).....Respondent, it has been held by Hon'ble High Court that section 25-G & 25-H & 25-F are independent of each other & section 25-G & 25-H are not dependent on section 25-F. It has also been held that section 25-G & 25-H are applicable irrespective of the fact that the workman has completed 240 days of service or not. It has been further held that rule 76 to 78 of Industrial Dispute Rules, 1957 are independent of each other & mandatory in nature. Violation of these rules will give a cause of action in favour of workman to claim compensation, damages & re-employment. To derive the benefits of these rules continuous service is not necessary & workmen not having completed 240 days of service are also entitled to the benefits of Rule 76 to 78. In this case petitioner Sh. Suryaprakash Sharma was retrenched from service before completion of 240 days & was not entitled for the benefits u/s 25 I.D. Act. The only question involved in this case was about applicability of section 25-H of I.D. Act read with Rule 77 & 78. The case of the respondent was that after discharge of petitioner on

1.11.88 they had employed few persons although persons who employed were discharged on 19.8.89. The petition of the petitioner was allowed & he was held entitled to claim wages by way of compensation for the period during which his junior remain in employment.

38. In 1976 LLJ, Supreme Court 478, State Bank of India....Appellant v/s N. Sundaramoney...Respondent, it has been held by Hon'ble Supreme Court that read with section 25-B(2) if provision of section 25-F of Industrial Dispute Act is attracted in case of the workman, he cannot be retrenched without payment of compensation at the time of retrenchment as prescribed therein. It is pertinent to mention that facts & circumstances of the present case are different comparing to the facts of State Bank of India v/s N. Sundaramoney, hence, law laid down by Hon'ble Supreme Court in State Bank of India v/s N. Sundaramoney is not attracted in the present case.

39. From decision of issue no. 2 & 3 it is clear that applicant is not entitled to the benefit of violation of section 25-G & 25-H of Industrial Dispute Act because violation of these two sections have not been proved by the applicant. It is also clear from the evidence on record that no seniority list is in existence as the case of opposite party is that there was no employment in respect of applicant & he was only engaged casually as & when there was existence of work. Applicant has not proved his appointment or termination by filing any documentary evidence in this behalf who was engaged as daily wage. It has been held by Hon'ble Supreme Court in 2006 Supreme Court Cases (L&S) 38, Surendranagar District Panchayat...Appellant V/s Dahyabhai Amarsinh...Respondent, in para 18 of the judgement in relation to section 25-G & section 25-H as under:—

".....In the absence of regular employment of the workmen, the appellant was not expected to maintain seniority list of the employees engaged on daily wages and in the absence of any proof by the respondent regarding existence of the seniority list and his so-called seniority, no relief could be given to him for non-compliance with provisions of the Act. The courts could have drawn adverse inference against the appellant only when seniority list was proved to be in existence and then not produced before the court. In order to entitle the court to draw inference unfavourable to the party, the court must be satisfied that evidence is in existence and could have been proved." Finding of Hon'ble Supreme Court in 2006 Supreme Court Cases (L&S) 38, Surendranagar District PanchayatAppellant V/s Dahyabhai Amarsinh.....Respondent, is relevant & applies to the case of applicant.

40. Bases on the findings related to issue no. 1 to 4 & from the discussions as above, I am of the view that

applicant is not entitled to any relief as prayed in the statement of claim & action of the management of Archaeological Survey of India in terminating the services of the workman Sh. Mitha Lal *w.e.f.* 30.8.06 without following the provisions of section 25-F, 25-G & 25-H of Industrial Disputes Act, 1947 is legal & justified.

41. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 25 जून, 2015

का.आ. 1305.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आर्कियोलॉजिकल सर्वे ऑफ इंडिया राजस्थान के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ सं० 49/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24/06/2015 को प्राप्त हुआ था।

[सं० एल-42012/26/2007-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 25th June, 2015

S.O. 1305.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the award (I.D. No. 49/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Archaeological Survey of India, Rajasthan and their workmen, which was received by the Central Government on 24/06/2015.

[No. L-42012/26/2007-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

BHARAT PANDEY,
Presiding Officer

I.D. 49/2007

Reference No. L42012/26/2007-IR(DU) dated: 23.7.2007

Sh. Laxmi Narayan
S/o Shri Laddu Lal Mali
R/o Village & Post Sherpur
Khilchipur,
Sawai Madhopur (Rajasthan)

V/s

The Regional Officer
Archaeological Survey of India
Ranthambhor Durg,
Sawai Madhopur (Rajasthan).

For the Applicant : Sh. M.F. Beig, Advocate
For the Non-Applicant : Sh. T.P. Sharma, Advocate

AWARD

18.5.2015

1. The Central Government in exercise of the powers conferred under clause (d) of Sub Section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:

"Whether the action of the management of Archaeological Survey of India, in terminating the services of their workman Shri Laxmi Narayan, *w.e.f.* 30.8.2006, without following the provisions of Sections 25F, 25G and 25H of the Industrial Dispute Act, 1947 is legal and justified? If not, to what relief the workman is entitled to?"

2. The fact of the case in brief is that the applicant workman was appointed as daily wage on 14.7.03. He was discharging his duty since appointment honestly & there was no complaint by opposite party against his work. Whatever work was assigned to the applicant he completed that work to best of his ability. Applicant was never served with any notice & no charge was ever proved against him.

3. He was appointed on daily wage but his period of appointment or nature of work was not fixed. The work for which he was appointed by opposite party is still existing & the nature of work is permanent. The applicant is 'workman' & the opposite party is 'employer' according to the definition of 'workman' & 'employer' provided in Industrial Disputes Act, 1947. The applicant had worked for more than 240 days in a calendar year immediately preceding the date of termination & his services were terminated on 30.8.06 without giving any notice or any payment in lieu of notice or retrenchment compensation in violation of section 25-F of Industrial Disputes Act, 1947. His termination is unfair labour practice & victimisation adopted by opposite party.

4. Before the termination of workman seniority list was neither prepared nor published by the opposite party which is violation of Rule 77 of Industrial Disputes rules, 1958. At the time of termination of the service workmen junior to the applicant were retained in service by the opposite party in violation of section 25-G of Industrial Disputes Act, 1947. The opposite party has made new appointment after termination of the services of the applicant workman but no priority was given to the applicant which is violation of section 25-H of Industrial Disputes Act, 1947 & Rule 78 of Industrial Disputes Act, 1958. It has been further alleged

by the applicant that applicant requested the opposite party to take the applicant in his employment but he was not taken back & due to non co-operation of opposite party conciliation also failed before the Conciliation Officer. The opposite party has accepted before the conciliation Officer that applicant was kept on work & work was taken from him, hence, the relation of employer & workman has not been denied by the opposite party but to escape from the liability of illegal termination is has been denied that opposite party is 'Industry' within the meaning of definition provided in of Industrial Disputes Act, 1947. The true position is that according to the activities & work the opposite party is an 'industry' according to the definition of industry provided under of Industrial Disputes Act, 1947. The provisions of Industrial Disputes Act, 1947 have not been followed by opposite party, hence the termination of the services of the workman is illegal & unfair.

5. It has been further alleged that allegation of the opposite party before the conciliation Officer is that the applicant workman was absent from duty from 15.3.2006 to 8.6.2006 but workman was not given any show cause notice. Neither any charge sheet was served upon him regarding absence from place of duty nor any charge was proved. The applicant had made his stand clear before the management that he has not remained absent during above said period & instead of absence he has been working in that period. The applicant had completed more than two years of service & he was demanding from the opposite party to declare him semi permanent employee. As a result of above demand of the applicant the opposite party instead of making him semi permanent terminated the services of the applicant. The applicant is jobless since the date of termination. It is, therefore, requested that termination order dated 30.08.06 be declared illegal & applicant reinstated with all party & emoluments along with continuity in service.

6. In reply statement in para 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 & 20 of the statement of claim have been specifically denied. In additional reply it has been alleged in para 2 that the applicant labourer was not appointed by the opposite party & he was engaged as casual labourer for carrying out casual work on the basis of part time contract & such engagement was coming to end immediately after completion of the work. It has also been alleged that the applicant labourer has never completed 240 days in any year & applicant is under an obligation to prove this fact by document. Statement of para 5 of statement of claim has been said to be baseless & nature of the work for which applicant was engaged is alleged to be casual. Against para 7 it has been alleged that to succeed in his sinister design applicant has fabricated the statement.

7. It has been alleged against para 8 of the statement of claim that applicant was called for a fixed works & his

services were coming to end after completion of the work. Relation between applicant & opposite party as workman & employer has been specifically denied against para 9 of the statement of claim & has been alleged that since he was never appointed the question of such relationship does not arise. The applicant does not fall within the definition of workman & the department of the opposite party does not fall within the definition of Industry. Applicant was never engaged permanently & he was called only when there was work. He was neither appointed on any post after following the rules of appointment nor any appointment letter was issued to him, therefore, question of termination of his services does not arise. It has been alleged in para 11 of reply that it is pertinent to note that applicant was not removed from the institution of opposite party & the fact is that the work was over hence, his services automatically came to an end. It was not necessary to give notice to the applicant because such notice is issued only to such workman who permanently work for a period of more than 240 days & the department is not satisfied with work of such workman, in that even such workman may be removed after serving one months notice. In case of applicant after completion of work he himself had gone elsewhere.

8. Against para 13 of statement of claim it has been alleged that workmen like applicant are not given any appointment letter neither they are deemed regular workmen of the department. Workman like applicant are engaged on daily wage basis according to need of a particular work for its execution & they are removed after completion of work or at the end of financial year or on other technical ground on suspension or stoppage of work. Against para 14 of statement of claim it has been alleged that nature of the new recruitment by the department whose nature is permanent is done by following the legal procedure & selection is made out of person who possess the prescribed eligibility. Applicant was not appointed on any vacant post under grade 'D'. At the time of engaging the applicant workman he was briefed orally that he is engaged against a specific work & nature of the work is purely temporary & casual in which applicant is not entitled to derive benefit of provisions of Industrial Disputes Act. The allegation of the applicant is wrong that he was removed out of animosity. In absence of casual work the services of the workman automatically comes to an end. In last paragraph of the reply it has been prayed that order of dismissal be passed against the statement of claim.

9. In rejoinder dated 3.6.2010 filed by applicant, statement of claim has been reiterated & statement of reply submitted by the opposite party has been alleged to be wrong.

10. In preliminary objection against statement of claim filed by opposite party it has been alleged that applicant

was neither given any appointment nor there was any sanctioned or vacant post. Department of the opposite party is not covered within the definition of industry as provided in section 2(j) of Industrial Disputes Act. In B-40/97, Gobardhan Lal Meena, v/s Archaeological Survey of India, it has been held by the Hon'ble Tribunal in its award dated 18.1.2001 that Archaeological Survey of India is not covered within the definition of industry. Industrial Tribunal, Jabalpur in its award dated 9.6.2003 has held that Archaeological Survey of India is not an 'Industry' within the meaning of section 2(j) of Industrial Disputes Act. It has also been alleged that the applicant was engaged for completion of casual work for fixed period of time & he has not worked for 240 days in any of the year, hence, he is not entitled to the benefit of if Industrial Disputes Act. It has also been alleged that the applicant left the work on his own even before the completion of the work, hence, he is not entitled to any relief.

11. Against preliminary objection it has been alleged by the applicant that preliminary objections are not tenable at belated stage. It has also been alleged that various precedents it has been alleged that preliminary objections are to be decided along with other issues on merits. It has also been alleged that preliminary objections are evidence based, hence, opposite party be directed to file the reply to the statement of claim.

12. Under mentioned issues were framed on 27.7.2011 by the then learned Presiding Officer of the Tribunal, based on pleadings of both the parties :—

- (1) Whether the workman had worked for more than 240 days as daily wager during period 14.07.03 to 30.08.06 preceding twelve months from the date of his alleged termination and whose service was terminated in violation of section 25-F of the Act?
- (2) At the time of terminating the service of the workman the juniors person to him were retained by the management in contravention of section 25-G of the I.D. Act?
- (3) Whether subsequent to the termination of the workman fresh hands were engaged by the non-applicant management in violation of section 25-H of the I.D. Act?
- (4) Whether non-applicant establishment is an 'industry' within the meaning of section 2-J of the I.D. Act?

13. Applicant has filed document w-1 which is reply of opposite party before conciliation proceeding, affidavit of the applicant in evidence and statement of number of working days in calendar year 2003, 2004, 2005 and 2006. Applicant has been cross examination by opposite party on his affidavit.

14. In documentary evidence, opposite party has filed statement of payment made to applicant and other workmen

which is 22 page. This document has been filed on direction of tribunal given on application of the applicant. Opposite party has filed affidavit of Sh. Brijraj Singh in evidence. Sh. Brijraj Singh has been cross examined on 28.10.14 by applicant side.

15. I have heard the argument of learned counsel for both the parties and perused the file. Written argument have been filed by both the parties which is on record.

16. Following citations have been referred on behalf of applicant:—

- i. 1976 LLJ, Supreme Court 478, State Bank of India.....Appellant v/s Sundaramoney.....Respondent
- ii. Judgement and order dated 21.02.1978 in civil appeal No. 753-754(T) of 1975, Bangalore Water Supply and Sewerage Board etc. etc. v/s A. Rajappa and others etc. etc.
- iii. 1983 LAB.I.C. 1629 (Supreme Court), D.P. Maheshwari.....Appellant v/s Delhi Administration and others.....Respondents.
- iv. Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No. 78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi v/s The Director General, Archaeological Survey of India, Janpath, New Delhi.
- v. RLR 1991(2), Jaipur Bench, Oriental Bank of Commerce.....Appellant v/s Presiding Officer, Central Government Industrial Tribunal and others (23).
- vi. RLR 1991(2), Jaipur Bench, Surya Prakash Sharma.....Petitioner v/s Rajasthan text Book Board, Jaipur and other (122).....Respondent.
- vii. Award dated 17.11.2008 passed by Industrial Tribunal Cum Labour Court, Kanpur, in Industrial Dispute No. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s Suresh Chandra.

17. Following citations have been referred on behalf of the opposite party:—

- i. Award dated 26.11.1986 passed by Central Administrative Tribunal, Ahmedabad in O.A. No. 33/86, Govind Kanji Parmar and othersPetitioner v/s Union of India and othersRespondents.
- ii. Award dated 30.10.1996 passed by Central Administrative Tribunal, Jodhpur Bench, Jodhpur in O.A. No. 331 to 334/1993, Devi Singh and otherspetitioners v/s Union of India and othersRespondents.

- iii. Award dated 18.01.2001 passed by Central Government Industrial Tribunal Cum Labour Court, Jaipur in CGIT case No. B-40/97 in Goverdhan Lal Meena v/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun.

18. It has been argued by the learned counsel for the applicant that applicant has completed continuous 240 days of service in every year but he has removed from service by opposite party in violation section 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947. It has also been argued that contention of the opposite party is against the law that Archaeological Survey of India is not an 'Industry' within the meaning of section 2(j) of the Act. Against this it has been argued by learned counsel for the opposite party that Archaeological Survey of India is not an 'Industry' and there is no violation of section 25-F, G and H of the Act. It has also been argued that applicant was neither appointed nor any appointment letter was issued. There was no advertisement for recruitment. It has also been argued that applicant was engaged on part time contract for casual work of repair and soon after completion of the work engagement of the applicant was over. It has also been alleged that his engagement was on daily wage and as the work of repair of the wall was of temporary character hence, on account of end of job and none availability of further job the applicant himself had left the place of job. It has also been argued that whenever there is availability of work, workmen are engaged on daily wage basis for the job. Reference has been made by both the parties towards precedents submitted by them in favour of their respective claim.

19. Before issue No. 1 is decided it appears desirable to take up issues 2, 3 and 4 for decision because decision of these issues are important and having relevance in decision of issue No. 1.

Issue No. 2

20. This issue relates to violation of section 25-G of Industrial Disputes Act, 1947 in terminating the services of applicant. Section 25-G of Industrial Disputes Act, 1947 reads as under:—

"Section 25-G. Procedure for retrenchment—Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman."

21. From perusal of the provision contained in section 25-G it appears that whenever in ordinary course of business a workman is required to be retrenched then the last person employed by the employer shall be retrenched

first unless there is special reason for retrenchment of a person other than the last employed person. From perusal of statement of claim it is evident that in para 13 it has been alleged that there has been violation of section 25-G of Industrial Disputes Act, 1947 in terminating the services of the applicant and junior to the applicant was retained in service at the time of his removal but no one has been named in statement of claim that who is the person junior to the applicant who was retained. In the affidavit also filed by applicant as evidence there is no mention of a person junior to him who was retained in the service at the time of his removal. In the cross examination of the applicant on page 2 this question has been placed before him and he has alleged that when he was removed at that time all other workmen were also removed. This statement of the applicant during cross examination obviously indicates that no one junior to him was retained & removal of all the workman together is also indicate of the fact of Cessation or completion of a particular work for which they are engaged. Here, it is also pertinent to note that it has been repeatedly argued by learned counsel for opposite party that in fact there has been no appointment, therefore, the question of removal of the applicant from employment does not arise. From the perusal of the cross examination of Sh. Brijlal Singh, Deputy Superintendent (Archaeology) it is clear that no assistance can be taken on assistance can be taken on this point from his cross examination. Bases on above discussion, it is clear that the applicant has failed to prove that at the time of termination of the service of applicant workman, juniors to him were retained by the management in contravention of section 25-G of the I.D. Act. Issue No. 2 is accordingly decided in negative against the applicant.

Issue No. 3

2. This issue is to the effect that whether subsequent to the termination of the workman fresh workmen were engaged by the non-applicant management in violation of section 25-G of the I.D. Act. For convenience provision section 25-H is reproduced below which reads as under:—

"Sec. 25-H. Re-employment of retrenched workmen—Where any workmen are retrenched, and the employer purposes to take into his employ any persons he shall, in such manner as may be prescribed, give an opportunity to the retrenched workmen who are citizens of India to offer themselves for re-employment, and such retrenched workmen, who offer themselves for re-employment shall have preference over other persons.

23. The above mentioned section 25-H provides that a retrench employee shall have preference in appointment over rest, if management, intends to employ a workman & the management is under an obligation to give opportunity to retrench workman so that he can offer himself for employment. If opportunity is not given by management it will amount to violation of section 25-H of I.D. Act. Para 14

of statement of claim indicates that after termination of the services of applicant new appointments were made without preference given to applicant. In reply to para 14 of statement of claim non-applicant has denied the appointment. There is no documentary evidence on record about new appointment. Para 6 of affidavit of applicant filed in evidence indicates that new appointments were made with no preference to applicant but in cross examination applicant has admitted that in his affidavit & statement of claim he has not alleged that after his removal who was appointed & when. The applicant has also admitted that in statement of claim also he has not given detail of newly appointed persons. In para 11 of affidavit of Sh. Brijraj Singh witness for opposite party violation of section 25-G & H has been specifically denied. In cross examination of Sh. Brijraj Singh there is nothing significant to draw in inference about violation of section 25-H of I.D. Act. Based on above discussion & appreciation of evidence adduced by the parties I am of the view that the applicant has failed to prove the violation of section 25-H of the I.D. Act regarding appointment of fresh hands subsequent to termination of his service. Issue No. 3 is accordingly decided against the applicant.

Issue No. 4

24. This issue is to the effect what whether establishment of the non-applicant Archaeological Survey of India is an Industry within the meaning of section 2(J) of the I.D. Act. A preliminary objection has been raised by non-applicant that establishment of the non-applicant is not covered under definition of 'Industry' as indicated in section 2(J) of the I.D. Act. Reliance has been placed by non-applicant on Award dated 18.1.2001 passed by Central Government Industrial Tribunal Cum Labour Court, Jaipur in CGIT case N. B-40/97 in Goverdhan Lal Meena V/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun. Against this, it has been argued by learned counsel for the applicant that establishment of non-applicant is covered by the definition of 'Industry'. Reliance has been placed by non-applicant on Judgement & order dated 21.2.1978 is civil appeal No. 753-754(T) of 1975, Bangalore Water Supply & Sewerage board etc.etc. v/s A. Rajappa & others etc. etc., Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No. 78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi v/s The Director General, Archaeological Survey of India, Janpath, New Delhi & Award dated 17.11.2008 passed by Industrial Tribunal Cum Labour Court, Kanpur, in Industrial Dispute No. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s Suresh Chandra. I have very carefully gone through cases cited by both the parties, Judgement dated 9.6.03 by CGIT, Jabalpur has not been filed by opposite party.

25. In Award dated 18.1.2001 passed by Central Government Industrial Tribunal-cum-Labour Court, Jaipur

in CGIT case No. B-40/97 in Goverdhan Lal Meena v/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun, cited by learned counsel for the opposite party it has been held in decision of issue No. 4 that provision of I.D. Act, 1947 apply to the case. Issue No. 4 has dealt with the fact that provisions of I.D. Act apply to the opposite party or not. Cases cited by learned counsel for the applicant indicate that Archaeological Survey of India is covered within the definition of 'Industry' as provided in section 2(j) of the I.D. Act. In Award dated 21.10.1998 passed by Industrial Tribunal, Delhi in I.D. No. 78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi V/s The Director General, Archaeological Survey of India, Janpath, New Delhi, discussing the case of Judgement & order dated 21.2.1978 in civil appeal No. 753-754(T) of 1975, Bangalore Water Supply & Sewerage Board etc. etc. v/s A. Rajappa & others etc.etc., it has been held by the CGIT, Delhi that Archaeological Survey of India is an 'Industry'. In Award dated 17.11.2008 passed by Industrial Tribunal Cum Labour Court, Kanpur, in Industrial Dispute no. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s Suresh Chandra, it has been held by CGIT, Kanpur that Archaeological Survey of India is an 'Industry'. From decision of the cases cited on behalf of both the parties & from the fact & circumstances of the present case, I am of the view that establishment of non-applicant Archaeological Survey of India is an 'Industry' within the meaning of section 2(J) of Industrial Disputes Act, 1947. Issue No. 4 is accordingly decided in affirmative against the non-applicant.

Issue no. 1

26. This issue is to the effect whether the workman had worked for more than 240 days as daily wager during period 14.7.03 to 30.8.06 preceding twelve months from the date of his alleged termination & whether his service was terminated in violation of section 25-F of the Act? It has been argued by learned counsel for the applicant & has also been alleged in the written argument that the applicant has worked for more than 240 days as daily wager during period of 12 months immediately preceding the date of termination on 30.8.06 & termination of the services of applicant is in violation of section 25-F of Industrial Disputes Act, hence, the order of termination is fit to be set aside with continuity in service along with back wages. Against this, it has been argued by the learned counsel for the opposite party & has also been alleged in the written arguments that applicant was not appointed by non-appointment letter was issued, there was no advertisement for any appointment. It has also been argued that applicant was engaged on daily wage basis for repair of the walls of the fort which is a work of temporary nature. It has also been argued that applicant voluntarily left the place of work on account of none availability of work. It has also been said that on availability of work engagement is made

on daily wage basis for the period of work only & provision of section 25-F is not attracted in the case of applicant. It has been alleged that in view of case of the applicant covered under section 2(oo) (bb) of the I.D. Act compliance of provisions of section 25-F is not required.

27. According to statement of claim applicant was appointed on daily wage on 14.7.03 & was terminated on 30.8.06 without notice or pay in lieu of notice or retrenchment compensation in violation of section 25-F of I.D. Act. What was the post held by the applicant during employment has not been alleged in statement of claim. About the nature of the work the applicant has alleged that whatever work was assigned by the opposite party applicant was performing that work. It has also been alleged that his engagement was neither for a fix work nor for a fix period. The applicant has alleged that he has worked for more than 240 days in every year. In affidavit filed in evidence in support of above statement of claim the applicant has repeated the allegation of statement of claim. No other co-worker has been produced as witness in evidence to support the allegation of statement of claim. In written statement it has been specifically denied by opposite party that applicant has worked for more than 240 days in a year instead it has been alleged that applicant has not worked for 240 days in any of the year. Sh. Brijraj Singh has specifically denied in para 3 of his affidavit that the applicant has worked for 240 days in any of the year. In above fact & circumstances, the burden of proof lies on applicant to prove that he has worked for more than 240 days in a year immediately preceding the date of his termination on 30.8.06 as alleged in statement of claim. The applicant has alleged in his cross examination that he has not stated in his affidavit in evidence or in statement of claim that for how many days he has worked in any corresponding year. He has admitted that he has filed document W-1 & in W-1 nature of work has been mentioned for which he was engaged & in W-1 it has also been mentioned that the nature of work includes 'special repair work' & such mention in W-1 is correct. Thus, it shall appear that two documents relating to total number of days of work has been filed by the applicant which is W-1 & W-2. W-2 is the document which appeared to be prepared by workmen whereas W-1 is the document which appears to be reply submitted by management during conciliation proceedings. From document W-2 if taken into consideration for calculating the period of 240 days immediately preceding the date of termination on 30.8.06 then total number of days on which the workman has worked between 30.8.05 to 30.8.06 comes out to be 140 days. From document W-1 it comes out to be 205 days but lacks continuity. Thus, workman has failed to prove that he has continuously worked for more than 240 days in the year immediately preceding the date of his termination. It shall also appear from both the documents W-1 & W-2 that there is no continuous work in the year.

28. Document regarding period & corresponding working days filed by management on order of the tribunal passed on application of the applicant provides following detail:-

Period of work	Number of working days.
19.2.2003 to 20.3.2003	27
19.9.04 to 16.2.04	27
13.4.04 to 13.5.04	27
15.5.04 to 8.6.04	21
9.6.04 to 9.7.04	28
18.7.04 to 27.7.04	10
11.7.04 to 10.8.04	19
12.8.04 to 11.9.04	26
13.9.04 to 12.10.04	26
14.10.04 to 31.10.04	16
1.11.04 to 1.12.04	27
3.12.04 to 2.1.05	28
4.1.05 to 3.2.05	28
6.2.05 to 8.3.05	27
9.3.05 to 17.3.05	9
19.3.05 to 13.4.05	24
6.6.05 to 6.7.05	27
8.11.05 to 8.12.05	29
10.12.05 to 9.1.06	27
11.1.06 to 10.2.06	29
12.2.06 to 14.3.06	27
9.6.06 to 7.7.06	28
Total number of days between 30.8.05 to 30.8.2006	140 days.

29. The statement of above table submitted by opposite party regarding statement of work done by workman indicates that from the date of termination on 30.8.06 applicant has worked only for 140 days in a year immediately preceding the date of termination on 30.8.06. Thus it is evident that the workman has not worked continuously for 240 days immediately preceding the date of termination. From the above discussion it is clear that applicant has failed to prove that he has worked for more than 240 days immediately preceding the date of termination. From the entire cross examination of Sh. Brijraj Singh there appears nothing to derive in favour of applicant that he has worked for more than 240 days in a year preceding the date of termination. From the above discussion it is clear that applicant has failed to prove that he has continuously worked for more than 240 days in a year immediately preceding the date of his termination.

30. As far as the question of violation of section 25-F of Industrial Dispute is concerned it has been argued by the learned counsel for the applicant that there has been violation of section 25-F in terminating the services of the applicant, against this learned counsel for the opposite

party has argued that there is no violation of section 25-F of I.D. Act & section 25-F does not apply in the case of applicant who was neither employed nor terminated & his engagement has been only for specific period & specific work & he has left the workplace on his own accord. It has also been argued that as the question of terminating the services of the applicant does not arise, because has was not given any employment & there was no advertisement for employment, hence, section 25-F does not apply to the case of the applicant. Section 25-F reads as under:-

"25-F. Conditions precedent to retrenchment of workmen.-No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until---

- (a) The workman has been given on month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;
- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days average pay for every completed year of continuous service or any part thereof in excess of six months; and
- (c) notice in the prescribed manner is served on the appropriate Government (or such authority as may be specified by the appropriate Government by notification in the Official Gazette.)

31. Continuous service as indicated in section 25-F(1) has been defined in section 25-B (1) (ii) which reads as under:-

Section 25-B. Definition of continuous service. --
---For the purposes of this Chapter----

- (1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman.
- (2) where a workman is not in continuous service within the meaning of Clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer---
 - (a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than----

- (i) one hundred and ninety days in the case of a workman employed below ground in a mine; and
- (ii) two hundred and forty days, in any other case;

32. Section 2 (oo) provides meaning of retrenchment which reads as under:-

"2(oo)---"retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include----

- (a) Voluntary retirement of the workman; or
- (b) Retirement of the workman on reaching the age of Superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or
- (bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or
- (c) termination of the service of a workman on the ground of continued ill-health

33. In 2006 Supreme Court Cases (L&S) 38, Surendranagar District Panchayat....Appellant v/s Dahyabhai Amarsinh.....Respondent, taking together & analyzing the integrated impact of section 2(oo), section 25-B & section 25-F in paragraph 7 page 43, it has been held by Hon'ble Supreme Court, ".....To attract provisions of Section 25-F, the workman claiming protection under it, has to prove that there exists relationship of employer and employee; that he is a workman within the meaning of section 2(s) of the Act; the establishment in which he is employed is an industry within the meaning of the Act and he must have put in not less than one year of continuous service as defined by section 25-B under the employer. These conditions are cumulative. If any of these conditions is missing the provisions of section 25-F will not be attracted. To get relief from the court the workman has to establish that he has right to continue in service and that his service has been terminated without complying with the provisions of section 25-F of the Act. The section postulates three conditions to be fulfilled by an employer for getting a valid retrenchment, namely:-

- (i) one month's clear notice in writing indicating the reasons for retrenchment or that the workman has been paid wages for the period of notice in lieu of such notice;
- (ii) payment of retrenchment compensation which shall be equivalent to 15 days' average pay for every completed year of continuous service or any part thereof, in excess of six months;

- (iii) a notice to the appropriate Government in the prescribed manner.

34. Looking into the above provisions & the law laid down by the Hon'ble Supreme Court to attract the provision of section 25-F, it is clear that the applicant has failed to prove that he has worked continuously for more than 240 days in a calendar year immediately preceding the date of his termination, thus, provision of section 25-F is not attracted in the case of applicant. From above discussion, I am of the view that the applicant has not worked continuously for more than 240 days as daily wage immediately preceding 12 months from the date of his alleged termination on 30.8.06 & his services were not terminated in violation of section 25-F of Industrial Disputes Act. Issue No. 1 is accordingly decided in negative against the applicant.

35. It has been argued by the learned counsel for the applicant that even if section 25-F is not attracted in case of applicant, he is entitled to the benefits of section 25-G & 25-H which are independent of section 25-F. Reliance has been placed on RLR 1991(2), Jaipur Bench, Oriental Bank of Commerce....Appellant v/s Presiding Officer, Central Govt. Industrial Tribunal & others & RLR 1991 (2), Jaipur Bench, Surya Prakash SharmaPetitioner v/s Rajasthan Text Book Board, Jaipur & other (122).....Respondent. Against this it has been argued by learned counsel for opposite party that provision of section 25-F & 25-H is not attracted in the case of applicant. I have carefully gone through both the above reported cases.

36. In case of Oriental Bank of Commerce v/s Presiding Officer respondent 2 was employed in the bank of petitioner from 23.5.85 to 28.5.85 for a period of 79 days. He was said to be appointed for leave period only & his engagement came to end after expiry of period of leave. The respondent raised industrial dispute relating to section 25-G & 25-H which was referred for adjudication. After the evidence of both the parties tribunal came to the conclusion that there was violation of section 25-G & section 25-H, hence, respondent was directed to be reinstated & it was also directed that he will be entitled to pay from the date of joining because respondent was said to be on the job in some other place. On the basis of evidence tribunal came to conclusion that management had failed to indicate that who was on leave in whose place respondent was employed during leave vacancy, hence, this fact was not admitted by tribunal that engagement of respondent was for the period of leave vacancy. It was admitted by the witness of the management that when respondent was removed from service employee Sh. Virendra Singh junior to the respondent was working. It was also admitted by management witness that after removal of respondent Sh. Mulan Rasool & Sh. Narendra Bhatt were appointed on the post of peon but respondent was not given opportunity. Thus, there was violation of section 25-G & 25-H. Petition

against the order of tribunal was dismissed by Division Bench of Hon'ble High Court & award of the tribunal was confirmed.

37. In RLR 1991 (2), Jaipur Bench, Surya Prakash SharmaPetitioner v/s Rajasthan Text Book Board, Jaipur & others (122).....Respondent, it has been held by Hon'ble High Court that section 25-G, 25-H & 25-F are independent of each other & section 25-G & 25-H are not dependent on section 25-F. It has also been held that section 25-G & 25-H are applicable irrespective of the fact that the workman has completed 240 days of service or not. It has been further held that rule 76 to 78 of Industrial Dispute Rules, 1957 are independent of each other & mandatory in nature. Violation of these rules will give a cause of action in favour of workman to claim compensation, damages & re-employment. To derive the benefits of these rules continuous service is not necessary & workmen not having completed 240 days of service are also entitled to the benefits of Rule 76 to 78. In this case petitioner Sh. Suryaprakash Sharma was retrenched from service before completion of 240 days & was not entitled for the benefits u/s 25 of I.D. Act. The only question involved in this case was about applicability of section 25-H of I.D. Act read with Rule 77 & 78. The case of the respondent was that after discharge of petitioner on 1.11.88 they had employed few persons although persons who employed were discharged on 19.8.89. The petition of the petitioner was allowed & he was held entitled to claim wages by way of compensation for the period during which his junior remain in employment.

38. In 1976 LLJ, Supreme Court 478, State Bank of India.....Appellant v/s Sundaramoney.....Respondent, it has been held by Hon'ble Supreme Court that read with section 25-B(2) if provision of section 25-F of Industrial Dispute Act is attracted in case of the workman, he cannot be retrenched without payment of compensation at the time of retrenchment as prescribed therein. It is pertinent to mention that facts & circumstances of the present case are different comparing to the facts of State Bank of India v/s N. Sundaramoney, hence, law laid down by Hon'ble Supreme Court in State Bank of India v/s N. Sundaramoney is not attracted in the present case.

39. From decision of issue No. 2 & 3 it is clear that applicant is not entitled to the benefit for violation of section 25-G & 25-H of Industrial Dispute Act because violation of these two sections have not been proved by the applicant. It is also clear from the evidence on record that no seniority list is in existence as the case of opposite party is that there was no employment in respect of applicant & he was only engaged casually as & when there was existence of work. Applicant has not proved his appointment or termination by filing any documentary evidence in this behalf who was engaged as daily wage. It has been held by Hon'ble Supreme Court in 2006 Supreme Court Cases (L&S) 38,

Surendranagar District PanchayatAppellant V/s Dahyabhai Amarsinh..... Respondent, in para 18 of the judgement in relation to section 25-G & section 25-H as under:-

".....In the absence of regular employment of the workmen, the appellant was not expected to maintain seniority list of the employees engaged on daily wages and in the absence of any proof by the respondent regarding existence of the seniority list and his so-called seniority, no relief could be given to him for non-compliance with provisions of the Act. The courts could have drawn adverse inference against the appellant only when seniority list was proved to be in existence and then not produced before the court. In order to entitle the court to draw inference unfavourable to the party, the court must be satisfied that evidence is in existence and could have been proved." Finding of Hon'ble Supreme Court in 2006 Supreme Court Cases (L&S) 38, Surendranagar District Panchayat.....Appellant V/s Dahyabhai Amarsinh..... Respondent, is relevant & applies to the case of applicant.

40. Bases on the findings related to issue No. 1 to 4 & from the discussions as above, I am of the view that applicant is not entitled to any relief as prayed in the statement of claim & action of the management of Archaeological Survey of India in terminating the services of the workman Sh. Laxmi Narayan w.e.f. 30.8.06 without following the provisions of section 25-F, 25-G & 25-H of Industrial Disputes Act, 1947 is legal & justified.

41. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 25 जून, 2015

का.आ. 1306.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आर्कियोलॉजिकल सर्वे ऑफ इंडिया राजस्थान के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ सं० 50/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24/06/2015 को प्राप्त हुआ था।

[सं एल-42012/28/2007-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 25th June, 2015

S.O. 1306.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the award (I.D. No. 50/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Archaeological Survey of India, Rajasthan and their

workmen, which was received by the Central Government on 24/06/2015.

[No. L-42012/28/2007-IR(DU)]

P. K. VENUGOPAL, Desk Officer.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, JAIPUR

BHARAT PANDEY,

PRESIDING OFFICER

I.D. 50/2007

Reference No. L-42012/28/2007-IR(DU) dated: 23.7.2007

Sh. Babulal Mali
S/o Shri Sitaram Mali
R/o 6 Ghar, Ramsingh Pura,
Post Shergpur,
Sawai Madhopur (Rajasthan)

V/s

The Regional Officer
Archaeological Survey of India
Ranthambhor Durg,
Sawai Madhopur (Rajasthan).

For the Applicant : Sh. M.F. Beig, Advocate.
For the Non- : Sh. T.P. Sharma, Advocate
Applicant

AWARD

18.5.2015

1. The Central Government in exercise of the powers conferred under clause (d) of Sub Section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:

"Whether the action of the management of Archaeological Survey of India, in terminating the services of their workman Shri Babu Lal, w.e.f. 30.8.2006, without following the provisions of Sections 25F, 25G and 25H of the Industrial Dispute Act, 1947 is legal and justified? If not, to what relief the workman is entitled to?"

2. The fact of the case in brief is that the applicant workman was appointed as daily wage on 14.7.03. He was discharging his duty since appointment honestly & there was no complaint by opposite party against his work. Whatever work was assigned to the applicant he completed that work to best of his ability. Applicant was never served with any notice & no charge was ever proved against him.

3. He was appointed on daily wage but his period of appointment or nature of work was not fixed. The work for

which he was appointed by opposite party is still existing & the nature of work is permanent. The applicant is 'workman' & the opposite party is 'employer' according to the definition of 'workman' & 'employer' provided in Industrial Disputes Act, 1947. The applicant had worked for more than 240 days in a calendar year immediately preceding the date of termination & his service were terminated on 30.8.06 without giving any notice or any payment in lieu of notice or retrenchment compensation in violation of section 25-F of Industrial Disputes Act, 1947. His termination is unfair labour practice & victimisation adopted by opposite party.

4. Before the termination of workman seniority list was neither prepared nor published by the opposite party which is violation of Rule 77 of Industrial Disputes rules, 1958. At the time of termination of the service workmen junior to the applicant were retained in service by the opposite party in violation of section 25-G of Industrial Disputes Act, 1947. The opposite party has made new appointment after termination of the services of the applicant workman but no priority was given to the applicant which is violation of section 25-H of Industrial Disputes Act, 1947 & Rule 78 of Industrial Disputes Act, 1958. It has been further alleged by the applicant that applicant requested the opposite party to take the applicant in his employment but he was not taken back & due to non co-operation of opposite party conciliation also failed before the Conciliation Officer. The opposite party has accepted before the conciliation Officer that applicant was kept on work & work was taken from him, hence, the relation of employer & workman has not been denied by the opposite party but to escape from the liability of illegal termination it has been denied that opposite party is 'Industry' within the meaning of definition provided in Industrial Disputes Act, 1947. The true position is that according to the activities & work the opposite party is an 'industry' according to the definition of industry provided under Industrial Disputes Act, 1947. The provisions of Industrial Disputes Act, 1947 have not been followed by opposite party, hence the termination of the services of the workman is illegal & unfair.

5. It has been further alleged that allegation of the opposite party before the conciliation Officer is that the applicant workman was absent from duty from 15.3.2006 to 8.6.2006 but workman was not given any show cause notice. Neither any charge sheet was served upon him regarding absence from place of duty nor any charge was proved. The applicant had made his stand clear before the management that he has not remained absent during above said period & instead of absence he has been working in that period. The applicant had completed more than two years of service & he was demanding from the opposite party to declare him semi permanent employee. As a result of above demand of the applicant the opposite party instead of making him semi permanent terminated the services of the applicant. The applicant is jobless since the date of

termination. It is, therefore, requested that termination order dated 30.08.06 be declared illegal & applicant reinstated with all party & emoluments along with continuity in service.

6. In reply statement in para 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 & 20 of the statement of claim have been specifically denied. In additional reply it has been alleged in para 2 that the applicant labourer was not appointed by the opposite party & he was engaged as casual labourer for carrying out casual work on the basis of part time contract & such engagement was coming to end immediately after completion of the work. It has also been alleged that the applicant labourer has never completed 240 days in any year & applicant is under an obligation to prove this fact by document. Statement of para 5 of statement of claim has been said to be baseless & nature of the work for which applicant was engaged is alleged to be casual. Against para 7 it has been alleged that to succeed in his sinister design applicant has fabricated the statement.

7. It has been alleged against para 8 of the statement of claim that applicant was called for a fixed work & his services were coming to end after completion of the work. Relation between applicant & opposite party as workman & employer has been specifically denied against para 9 of the statement of claim & has been alleged that since he was never appointed the question of such relationship does not arise. The applicant does not fall within the definition of workman & the department of the opposite party does not fall within the definition of Industry. Applicant was never engaged permanently & he was called only when there was work. He was neither appointed on any post after following the rules of appointment nor any appointment letter was issued to him, therefore, question of termination of his services does not arise. It has been alleged in para 11 of reply that it is pertinent to note that applicant was not removed from the institution of opposite party & the fact is that the work was over hence, his services automatically came to an end. It was not necessary to give notice to the applicant because such notice is issued only to such workman who permanently work for a period of more than 240 days & the department is not satisfied with work of such workman, in that even such workman may be removed after serving one month's notice. In case of applicant after completion of work he himself had gone elsewhere.

8. Against para 13 of statement of claim it has been alleged that workmen like applicant are not given any appointment letter neither they are deemed regular workmen of the department. Workman like applicant are engaged on daily wage basis according to need of a particular work for its execution & they are removed after completion of work or at the end of financial year or on other technical ground on suspension or stoppage of work. Against para 14 of statement of claim it has been alleged that nature of the

new recruitment by the department whose nature is permanent is done by following the legal procedure & selection is made out of person who possess the prescribed eligibility. Applicant was not appointed on any vacant post under grade 'D'. At the time of engaging the applicant workman he was briefed orally that he is engaged against a specific work & nature of the work is purely temporary & casual in which applicant is not entitled to derive benefit of provisions of Industrial Disputes Act. The allegation of the applicant is wrong that he was removed out of animosity. In absence of casual work the services of the workman automatically comes to an end. In last paragraph of the reply it has been prayed that order of dismissal be passed against the statement of claim.

9. In rejoinder dated 3.6.2010 filed by applicant, statement of claim has been reiterated & statement of reply submitted by the opposite party has been alleged to be wrong.

10. In preliminary objection against statement of claim filed by opposite party it has been alleged that applicant was neither given any appointment nor there was any sanctioned or vacant post. Department of the opposite party is not covered within the definition of industry as provided in section 2(j) of Industrial Disputes Act. In B-40/97, Gobardhan Lal Meena, v/s Archaeological Survey of India, it has been held by the Hon'ble Tribunal in its award dated 18.1.2001 that Archaeological Survey of India is not covered within the definition of industry. Industrial Tribunal, Jabalpur in its award dated 9.6.2003 has held that Archaeological Survey of India is not an 'Industry' within the meaning of section 2(j) of Industrial Disputes Act. It has also been alleged that the applicant was engaged for completion of casual work for fixed period of time & he has not worked for 240 days in any of the year, hence, he is not entitled to the benefit of if Industrial Disputes Act. It has also been alleged that the applicant left the work on his own even before the completion of the work, hence, he is not entitled to any relief.

11. Against preliminary objection it has been alleged by the applicant that preliminary objections are not tenable at belated state. It has also been alleged that various precedents it has been alleged that preliminary objections are to be decided also with other issues on merits. It has also been alleged that preliminary objections are evidence based, hence, opposite party be directed to file the reply to the statement of claim.

12. Under mentioned issues were framed on 27.7.2011 by the then learned Presiding Officer of the Tribunal, based on pleadings of both the parties:

(1) Whether the workman had worked for more than 240 days as daily wager during period 14.07.03 to 30.08.06 preceding twelve months from the date of his alleged termination and whose service was terminated in violation of section 25-F of the Act?

(2) At the time of terminating the service of the workman the juniors person to him were retained by the management in contravention of section 25-G of the I.D. Act?

(3) Whether subsequent to the termination of the workman fresh hands were engaged by the non-applicant management in violation of section 25-H of the I.D. Act?

(4) Whether non-applicant establishment is an 'industry' within the meaning of section 2-J of the I.D. Act?

13. Applicant has filed document w-1 which is reply of opposite party before conciliation proceeding, affidavit of the applicant in evidence and statement of number of working days in calendar year 2003, 2004, 2005 and 2006. Applicant has been cross examination by opposite party on his affidavit.

14. In documentary evidence, opposite party has filed statement of payment made to applicant and other workmen which is 17 page. This document has been filed on direction of tribunal given on application of the applicant. Opposite party has filed affidavit of Sh. Brijraj Singh in evidence. Sh. Brijraj Singh has been cross examined on 28.10.14 by applicant side.

15. I have heard the argument of learned counsel for both the parties and perused the file. Written argument have been filed by both the parties which is on record.

16. Following citations have been referred on behalf of applicant:—

- i. 1976 LLJ, Supreme Court 478, State Bank of India.....Appellant v/s N. Sundaramoney Respondent
- ii Judgement and order dated 21.02.1978 in civil appeal No. 753-54(T) of 1975, Bangalore Water Supply and Sewerage Board etc. etc. v/s A. Rajappa and others etc. etc.
- iii. 1983 LAB.I.C. 1629 (Supreme Court), D.P. Maheshwari.....Appellant v/s Delhi Administration and others.....Respondents.
- iv. Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No. 78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi v/s The Director General, Archaeological Survey of India, Janpath, New Delhi.
- v. RLR 1991(2), Jaipur Bench, Oriental Bank of Commerce.....Appellant v/s Presiding Officer, Central Government Industrial Tribunal and others (23).
- vi. RLR 1991(2), Jaipur Bench, Surya Prakash Sharma.....Petitioner v/s Rajasthan text Book Board, Jaipur and other (122).....Respondent.

- vii. Award dated 17.11.2008 passed by Industrial Tribunal Cum Labour Court, Kanpur, in Industrial Dispute No. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s Suresh Chandra.

17. Following citations have been referred on behalf of the opposite party:—

- i. Award dated 26.11.1986 passed by Central Administrative Tribunal, Ahmedabad in O.A. No. 33/86, Govind Kanji Parmar and others Petitioner v/s Union of India and others Respondents.
- ii. Award dated 30.10.1996 passed by Central Administrative Tribunal, Jodhpur Bench, Jodhpur in O.A. No. 331 to 334/1993, Devi Singh and others petitioners v/s Union of India and others Respondents.
- iii. Award dated 18.01.2001 passed by Central Government Industrial Tribunal Cum Labour Court, Jaipur in CGIT case No. B-40/97 in Goverdhan Lal Meena v/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun.

18. It has been argued by the learned counsel for the applicant that applicant has completed continuous 240 days of service in every year but he has removed from service by opposite party in violation section 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947. It has also been argued that contention of the opposite party is against the law that Archaeological Survey of India is not an 'Industry' within the meaning of section 2(j) of the Act. Against this it has been argued by learned counsel for the opposite party that Archaeological Survey of India is not an 'Industry' and there is no violation of section 25-F, G and H of the Act. It has also been argued that applicant was neither appointed nor any appointment letter was issued. There was no advertisement for recruitment. It has also been argued that applicant was engaged on part time contract for casual work of repair and soon after completion of the work engagement of the applicant was over. It has also been alleged that his engagement was on daily wage and as the work of repair of the wall was of temporary character hence, on account of end of job and none availability of further job the applicant himself had left the place of job. It has also been argued that whenever there is availability of work, workmen are engaged on daily wage basis for the job. Reference has been made by both the parties towards precedents submitted by them in favour of their respective claim.

19. Before issue No. 1 is decided it appears desirable to take up issues 2, 3 and 4 for decision because decision of these issues are important and having relevance in decision of issue No. 1.

Issue No. 2

20. This issue relates to violation of section 25-G of Industrial Disputes Act, 1947 in terminating the services of applicant. Section 25-G of Industrial Disputes Act, 1947 reads as under:—

"Section 25-G. Procedure for retrenchment.—

Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman."

21. From perusal of the provision contained in section 25-G it appears that whenever in ordinary course of business a workman is required to be retrenched then the last person employed by the employer shall be retrenched first unless there is special reason for retrenchment of a person other than the last employed person. From perusal of statement of claim it is evident that in para 13 it has been alleged that there has been violation of section 25-G of Industrial Disputes Act, 1947 in terminating the services of the applicant and junior to the applicant was retained in service at the time of his removal but no one has been named in statement of claim that who is the person junior to the applicant who was retained. In the affidavit also filed by applicant as evidence there is no mention of a person junior to him who was retained in the service at the time of his removal. In the cross examination of the applicant on page 2 this question has been placed before him and he has alleged that when he was removed at that time all other workmen were also removed. This statement of the applicant during cross examination obviously indicates that no one junior to him was retained & removal of all the workman together is also indicate of the fact of Cessation or completion of a particular work for which they are engaged. Here, it is also pertinent to note that it has been repeatedly argued by learned counsel for opposite party that in fact there has been no appointment, therefore, the question of removal of the applicant from employment does not arise. From the perusal of the cross examination of Sh. Brijraj Singh, Deputy Superintendent (Archaeology) it is clear that no assistance can be taken on assistance can be taken on this point from his cross examination. Bases on above discussion, it is clear that the applicant has failed to prove that at the time of termination of the service of applicant workman, juniors to him were retained by the management in contravention of section 25-G of the I.D. Act. Issue No. 2 is accordingly decided in negative against the applicant.

Issue No. 3

2. This issue is to the effect that whether subsequent to the termination of the workman fresh workmen were

engaged by the non-applicant management in violation of section 25-G of the I.D. Act. For convenience provision section 25-H is reproduced below which reads as under:—

"Sec. 25-H. Re-employment of retrenched workmen—Where any workmen are retrenched, and the employer purposes to take into his employ any persons he shall, in such manner as may be prescribed, give an opportunity to the retrenched workmen who are citizens of India to offer themselves for re-employment, and such retrenched workmen, who offer themselves for re-employment shall have preference over other persons.

23. The above mentioned section 25-H provides that a retrench employee shall have preference in appointment over rest, if management, intends to employ a workman & the management is under an obligation to give opportunity to retrench workman so that he can offer himself for employment. If opportunity is not given by management it will amount to violation of section 25-H of I.D. Act. Para 14 of statement of claim indicates that after termination of the services of applicant new appointments were made without preference given to applicant. In reply to para 14 of statement of claim non-applicant has denied the appointment. There is no documentary evidence on record about new appointment. Para 6 of affidavit of applicant filed in evidence indicates that new appointments were made with no preference to applicant but in cross examination applicant has admitted that in his affidavit & statement of claim he has not alleged that after his removal who was appointed & when. The applicant has also admitted that in statement of claim also he has not given detail of newly appointed persons. In para 11 of affidavit of Sh. Brijraj Singh witness for opposite party violation of section 25-G & H has been specifically denied. In cross examination of Sh. Brijraj Singh there is nothing significant to draw in inference about violation of section 25-H of I.D. Act. Based on above discussion & appreciation of evidence adduced by the parties I am of the view that the applicant has failed to prove the violation of section 25-H of the I.D. Act regarding appointment of fresh hands subsequent to termination of his service. Issue No. 3 is accordingly decided against the applicant.

Issue No. 4

24. This issue is to the effect what whether establishment of the non-applicant Archaeological Survey of India is an Industry within the meaning of section 2(j) of the I.D. Act. A preliminary objection has been raised by non-applicant that establishment of the non-applicant is not covered under definition of 'Industry' as indicated in section 2(j) of the I.D. Act. Reliance has been placed by non-applicant on Award dated 18.1.2001 passed by Central Government Industrial Tribunal-cum-Labour Court, Jaipur in CGIT case No. B-40/97 in Goverdhan Lal Meena v/s Director (Science), Archaeological Survey of India, Science Branch,

Deharadun. Against this, it has been argued by learned counsel for the applicant that establishment of non-applicant is covered by the definition of 'Industry'. Reliance has been placed by non-applicant on Judgement & order dated 21.2.1978 is civil appeal No. 753-754(T) of 1975, Bangalore Water Supply & Sewerage Board etc.etc. v/s A. Rajappa & others etc. etc., Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No. 78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi v/s The Director General, Archaeological Survey of India, Janpath, New Delhi & Award dated 17.11.2008 passed by Industrial Tribunal-cum-Labour Court, Kanpur, in Industrial Dispute No. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s Suresh Chandra. I have very carefully gone through cases cited by both the parties, Judgement dated 9.6.03 by CGIT, Jabalpur has not been filed by opposite party.

25. In Award dated 18.1.2001 passed by Central Government Industrial Tribunal-cum-Labour Court, Jaipur in CGIT case No. B-40/97 in Goverdhan Lal Meena v/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun, cited by learned counsel for the opposite party it has been held in decision of issue No. 4 that provision of I.D. Act, 1947 apply to the case. Issue No. 4 has dealt with the fact that provisions of I.D. Act apply to the opposite party or not. Cases cited by learned counsel for the applicant indicate that Archaeological Survey of India is covered within the definition of 'Industry' as provided in section 2(j) of the I.D. Act. In Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No. 78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi v/s The Director General, Archaeological Survey of India, Janpath, New Delhi, discussing the case of Judgement & order dated 21.2.1978 in civil appeal No. 753-754(T) of 1975, Bangalore Water Supply & Sewerage Board etc. etc. v/s A. Rajappa & others etc.etc., it has been held by the CGIT, Delhi that Archaeological Survey of India is an 'Industry'. In Award dated 17.11.2008 passed by Industrial Tribunal-cum-Labour Court, Kanpur, in Industrial Dispute No. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s Suresh Chandra, it has been held by CGIT, Kanpur that Archaeological Survey of India is an 'Industry'. From decision of the cases cited on behalf of both the parties & from the fact & circumstances of the present case, I am of the view that establishment of non-applicant Archaeological Survey of India is an 'Industry' within the meaning of section 2(j) of Industrial Disputes Act, 1947. Issue No. 4 is accordingly decided in affirmative against the non-applicant.

Issue No. 1

26. This issue is to the effect whether the workman had worked for more than 240 days as daily wager during period 14.7.03 to 30.8.06 preceding twelve months from the date of

his alleged termination & whether his service was terminated in violation of section 25-F of the Act? It has been argued by learned counsel for the applicant & has also been alleged in the written argument that the applicant has worked for more than 240 days as daily wagger during period of 12 months immediately preceding the date of termination on 30.8.06 & termination of the services of applicant is in violation of section 25-F of Industrial Disputes Act, hence, the order of termination is fit to be set aside with continuity in service along with back wages. Against this, it has been argued by the learned counsel for the opposite party & has also been alleged in the written argument that applicant was not appointed by non-applicant, no appointment letter was issued, there was no advertisement for any appointment. It has also been argued that applicant was engaged on daily wage basis for repair of the walls of the fort which is a work of temporary nature. It has also been argued that applicant voluntarily left the place of work on account of none availability of work. It has also been said that on availability of work engagement is made on daily wage basis for the period of work only & provision of section 25-F is not attracted in the case of applicant. It has been alleged that in view of case of the applicant covered under section 2(o) (bb) of the I.D. Act compliance of provision of section 25-F is not required.

27. According to statement of claim applicant was appointed on daily wage on 14.7.03 & was terminated on 30.8.06 without notice or pay in lieu of notice or retrenchment compensation in violation of section 25-F of I.D. Act. What was the post held by the applicant during employment has not been alleged in statement of claim. About the nature of the work the applicant has alleged that whatever work was assigned by the opposite party applicant was performing that work. It has also been alleged that his engagement was neither for a fix work nor for a fix period. The applicant has alleged that he has worked for more than 240 days in every year. In affidavit filed in evidence in support of above statement of claim the applicant has repeated the allegation of statement of claim. No other co-worker has been produced as witness in evidence to support the allegation of statement of claim. In written statement it has been specifically denied by opposite party that applicant has worked for more than 240 days in a year instead it has been alleged that applicant has not worked for 240 days in any of the year. Sh. Brijraj Singh has specifically denied in para 3 of his affidavit that the applicant has worked for 240 days in any of the year. In above fact & circumstances, the burden of proof lies on applicant to prove that he has worked for more than 240 days in a year immediately preceding the date of his termination on 30.8.06 as alleged in statement of claim. The applicant has alleged in his cross-examination that he has not stated in his affidavit in evidence or in statement of claim that for how many days he has worked in any corresponding year. He has admitted that he has filed

document W-1 & in W-1 nature of work has been mentioned for which he was engaged & in W-1 it has also been mentioned that the nature of work includes 'special repair work' & such mention in W-1 is correct. Thus, it shall appear that two documents relating to total number of days of work has been filed by the applicant is W-1 & W-2. W-2 is the document which appeared to be prepared by workmen whereas W-1 is the document which appears to be reply submitted by management during conciliation proceedings. From document W-2 it taken into consideration for calculating the period for 240 days immediately preceding the date of termination on 30.8.06 then total number of days on which the workman has worked between 30.8.05 to 30.8.06 comes out to be 171 days. From document W-1 it comes out to be 179 days but lacks continuity. Thus, workman has failed to prove that he has continuously worked for more than 240 days in the year immediately preceding the date of his termination. It shall also appear from both the documents W-1 & W-2 that there is no continuous work in the year.

28. Document regarding period & corresponding working days filed by management on order of the tribunal passed on application of the applicant provides following detail:—

Period of work	Number of working days.
9.9.04 to 30.9.04	12
14.10.04 to 31.10.04	11
1.11.04 to 28.11.04	25
3.12.04 to 2.1.05	27
4.1.05 to 3.2.05	31
6.2.05 to 8.3.05	26
9.3.05 to 17.3.05	09
19.3.05 to 13.4.05	24
15.2.05 to 17.3.05	NIL
5.5.05 to 4.6.05	28
6.6.05 to 6.7.05	13
8.10.05 to 7.11.05	28
9.11.05 to 9.12.05	30
11.12.05 to 10.1.06	28
11.1.06 to 10.2.06	29
12.2.06 to 14.3.06	28
9.6.06 to 7.7.06	27
Total number of days between 30.8.05 to 30.8.06	170 days.

29. The statement of above table submitted by opposite party regarding statement of work done by workman

indicates that from the date of termination on 30.8.06 applicant has worked only for 170 days in a year immediately preceding the date of termination on 30.8.06. Thus it is evident that the workman has not worked continuously for 240 days immediately preceding the date of termination. From the above discussion it is clear that applicant has failed to prove that he has worked for more than 240 days immediately preceding the date of termination. From the entire cross-examination of Sh. Brijraj Singh there appears nothing to device in favours of applicant that he has worked for more than 240 days in a year preceding the date of termination. From the above discussion it is clear that applicant has failed to prove that he has continuously worked for more than 240 days in a year immediately preceding the date of his termination.

30. As far as the question of violation of section 25-F of Industrial Dispute is concerned it has been argued by the learned counsel for the applicant that there has been violation of section 25-F in terminating the services of the applicant, against this learned counsel for the opposite party has argued that there is no violation of section 25-F of I.D. Act & section 25-F does not apply in the case of applicant who was neither employed nor terminated & his engagement has been only for specific period & specific work & he has left the workplace on his own accord. It has also been argued that as the question of terminating the services of the applicant does not arise, because has was not given any employment & there was no advertisement for employment, hence, section 25-F does not apply to the case of the applicant. Section 25-F reads as under:—

"25-F. Conditions precedent to retrenchment of workmen.—No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

- (a) The workman has been given on month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;
- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and
- (c) notice in the prescribed manner is served on the appropriate Government (or such authority as may be specified by the appropriate Government by notification in the Official Gazette.)

31. Continuous service as indicated in section 25-F(1) has been defined in section 25-B (1) (ii) which reads as under:—

Section 25-B. Definition of continuous service. -----For the purposes of this Chapter—

(1) a workman shall be said to be in continuous service for a period of he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman.

(2) where a workman is not in continuous service within the meaning of Clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer—

- (a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—
 - (i) one hundred and ninety days in the case of a workman employed below ground in a mine; and
 - (ii) two hundred and forty days, in any other case;

32. Section 2 (00) provides meaning of retrenchment which reads as under:-

"2(00)---"retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include—

- (a) Voluntary retirement of the workman; or
- (b) Retirement of the workman on reaching the age of Superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or
- (bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or
- (c) termination of the service of a workman on the ground of continued ill-health.

33. In 2006 Supreme Court Cases (L&S) 38, Surendranagar District Panchayat....Appellant v/s Dahyabhai Amarsinh.....Respondent, taking together & analyzing the integrated impact of section 2(oo), section 25-B & section 25-F in paragraph 7 page 43, it has been held by Hon'ble Supreme Court, ".....To attract provisions of Section 25-F, the workman claiming protection under it, has to prove that there exists relationship of employer and employee; that he is a workman within the meaning of section 2(s) of the Act; the establishment in which he is

employed is an industry within the meaning of the Act and he must have put in not less than one year of continuous service as defined by section 25-B under the employer. These conditions are cumulative. If any of these conditions is missing the provisions of section 25-F will not be attracted. To get relief from the court the workman has to establish that he has right to continue in service and that his service has been terminated without complying with the provisions of section 25-F of the Act. The section postulates three conditions to be fulfilled by an employer for getting a valid retrenchment, namely:—

- (i) one month's clear notice in writing indicating the reasons for retrenchment or that the workman has been paid wages for the period of notice in lieu of such notice;
- (ii) payment of retrenchment compensation which shall be equivalent to 15 days' average pay for every completed year of continuous service or any part thereof, in excess of six months;
- (iii) a notice to the appropriate Government in the prescribed manner.

34. Looking into the above provisions & the law laid down by the Hon'ble Supreme Court to attract the provision of section 25-F, it is clear that the applicant has failed to prove that he has worked continuously for more than 240 days in a calendar year immediately preceding the date of his termination, thus, provision of section 25-F is not attracted in the case of applicant. From above discussion, I am of the view that the applicant has not worked continuously for more than 240 days as daily wage immediately preceding 12 months from the date of his alleged termination on 30.8.06 & his services were not terminated in violation of section 25-F of Industrial Disputes Act. Issue No. 1 is accordingly decided in negative against the applicant.

35. It has been argued by the learned counsel for the applicant that even if section 25-F is not attracted in case of applicant, he is entitled to the benefits of section 25-G & 25-H which are independent of section 25-F. reliance has been placed on RLR 1991(2), Jaipur Bench, Oriental Bank of Commerce....Appellant v/s Presiding Officer, Central Govt. Industrial Tribunal & others & RLR 1991 (2), Jaipur Bench, Surya Prakash SharmaPetitioner v/s Rajasthan Text Book Board, Jaipur & other (122).....Respondent. Against this it has been argued by learned counsel for opposite party that provision of section 25-F & 25-H is not attracted in the case of applicant. I have carefully gone through both the above reported cases.

36. In case of Oriental Bank of Commerce v/s Presiding Officer respondent No. 2 was employed in the bank of petitioner from 23.5.85 to 28.5.85 for a period of 79 days. He was said to be appointed for leave period only & his engagement came to end after expiry of period of leave.

The respondent raised industrial dispute relating to section 25-G & 25-H which was referred for adjudication. After the evidence of both the parties tribunal came to the conclusion that there was violation of section 25-G & section 25-H, hence, respondent was directed to be reinstated & it was also directed that he will entitled to pay from the date of joining because respondent was said to be on the job in some other place. On the basis of evidence tribunal came to conclusion that management had failed to indicate that who was on leave in whose place respondent was employed during leave vacancy, hence, this fact was not admitted by tribunal that engagement of respondent was for the period of leave vacancy. It was admitted by the witness of the management that when respondent was removed from service employee Sh. Virendra Singh junior to the respondent was working. It was also admitted by management witness that after removal of respondent Sh. Mulan Rasool & Sh. Narendra Bhatt were appointed on the post of peon but respondent was not given opportunity. Thus, there was violation of section 25-G & 25-H. Petition against the order of tribunal was dismissed by Division Bench of Hon'ble High Court & award of the tribunal was confirmed.

37. In RLR 1991 (2), Jaipur Bench, Surya Prakash SharmaPetitioner v/s Rajasthan Text Book Board, Jaipur & others (122).....Respondent, it has been held by Hon'ble High Court that section 25-G, 25-H & 25-F are independent of each other & section 25-G & 25-H are not dependent on section 25-F. It has also been held that section 25-G & 25-H are applicable irrespective of the fact that the workman has completed 240 days of service or not. It has been further held that rule 76 to 78 of Industrial Dispute Rules, 1957 are independent of each other & mandatory in nature. Violation of these rules will give a cause of action in favour of workman to claim compensation, damages & re-employment. To derive the benefits of these rules continuous service is not necessary & workmen not having completed 240 days of service are also entitled to the benefits of Rule 76 to 78. In this case petitioner Sh. Suryaprakash Sharma was retrenched from service before completion of 240 days & was not entitled for the benefits u/s 25 of I.D. Act. The only question involved in this case was about applicability of section 25-H of I.D. Act read with Rule 77 & 78. The case of the respondent was that after discharge of petitioner on 1.11.88 they had employed few persons although persons who employed were discharged on 19.8.89. The petition of the petitioner was followed & he was held entitled to claim wages by way of compensation for the period during which his junior remain in employment.

38. In 1976 LLJ, Supreme Court 478, State Bank of India.....Appellant v/s N. Sundaramoney.....Respondent, it has been held by Hon'ble Supreme Court that read with section 25-B(2) if provision of section 25-F of Industrial

Dispute Act is attracted in case of the workman, he cannot be retrenched without payment of compensation at the time of retrenchment as prescribed therein. It is pertinent to mention that facts & circumstances of the present case are different comparing to the facts of State Bank of India v/s N. Sundarmony, hence, law laid down by Hon'ble Supreme Court in State Bank of India v/s N. Sundarmony is not attracted in the present case.

39. From decision of issue No. 2 & 3 it is clear that applicant is not entitled to the benefit for violation of section 25-G & 25-H of Industrial Dispute Act because violation of these two sections have not been proved by the applicant. It is also clear from the evidence on record that no seniority list is in existence as the case of opposite party is that there was no employment in respect of applicant & he was only engaged casually as & when there was existence of work. Applicant has not proved his appointment or termination by filling any documentary evidence in this behalf who was engaged as daily wager. It has been held by Hon'ble Supreme Court in 2006 Supreme Court Cases (L&S) 38, Surendranagar District PanchayatAppellant V/s Dahyabhai Amarsinh..... Respondent, in para 18 of the judgement in relation to section 25-G & section 25-H as under:—

".....In the absence of regular employment of the workmen, the appellant was not expected to maintain seniority list of the employees engaged on daily wages and in the absence of any proof by the respondent regarding existence of the seniority list and his so-called seniority, no relief could be given to him for non-compliance with provisions of the Act. The courts could have drawn adverse inference against the appellant only when seniority list was proved to be in existence and then not produced before the court. In order to entitle the court to draw inference unfavourable to the party, the court must be satisfied that evidence is in existence and could have been proved." Finding of Hon'ble Supreme Court in 2006 Supreme Court Cases (L&S) 38, Surendranagar District Panchayat.....Appellant V/s Dahyabhai Amarsinh..... Respondent, is relevant & applies to the case of applicant.

40. Bases on the findings related to issue No. 1 to 4 & from the discussions as above, I am of the view that applicant is not entitled to any relief as prayed in the statement of claim & action of the management of Archaeological Survey of India in terminating the services of the workman Sh. Babu Lal w.e.f. 30.8.06 without following the provisions of section 25-F, 25-G & 25-H of Industrial Disputes Act, 1947 is legal & justified.

41. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 25 जून, 2015

का.आ. 1307.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आर्कियोलॉजिकल सर्वे ऑफ इंडिया राजस्थान के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ सं० 51/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24/06/2015 को प्राप्त हुआ था।

[सं० एल-42012/29/2007-आईआर (डी यू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 25th June, 2015

S.O. 1307.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 51/2007) of the Central Government Industrial Tribunal-Cum-Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Archaeological Survey of India, Rajasthan and their workmen, which was received by the Central Government on 24/06/2015.

[No. L-42012/29/2007-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, JAIPUR

BHARAT PANDEY,
PRESIDING OFFICER

I.D. 51/2007

Reference NO. L-42012/29/2007-IR(DU) dated: 23.7.2007

Sh. Bhagchand Mali
S/o Shri Morpal Mali
R/o Village & Post Sherpur,
Khilchipur,
Sawai Madhopur (Rajasthan)

V/s

The Regional Officer
Archaeological Survey of India
Ranthambhor Durg,
Sawai Madhopur (Rajasthan).

For the Applicant : Sh. M.F. Bieg, Advocate.
For the Non-applicant : T.P. Sharma, Advocate.

AWARD

18.5.2015

1. The Central Government in exercise of the powers conferred under clause (d) of Sub Section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred

the following Industrial dispute to this tribunal for adjudication:—

"Whether the action of the management of Archaeological Survey of India, in terminating the services of their workman Shri Bhagchand Mali, w.e.f. 30.8.2006, without following the provisions of Sections 25F, 25G and 25H of the Industrial Dispute Act, 1947 is legal and justified? If not, to what relief the workman is entitled to?"

2. The fact of the case in brief is that the applicant workman was appointed as daily wager on 9.8.03. He was discharging his duty since appointment honestly & there was no complaint by opposite party against his work. Whatever work was assigned to the applicant he completed that work to best of his ability. Applicant was never served with any notice & no charge was ever proved against him.

3. He was appointed on daily wage but his period of appointment or nature of work was not fixed. The work for which he was appointed by opposite party is still existing & the nature of work is permanent. The applicant is 'workman' & the opposite party is 'employer' according to the definition of 'workman' & 'employer' provided in Industrial Disputes Act, 1947. The applicant had worked for more than 240 days in a calendar year immediately preceding the date of termination & his services were terminated on 30.8.06 without giving any notice or any payment in lieu of notice or retrenchment compensation in violation of section 25-F of Industrial Disputes Act, 1947. His termination is unfair labour practice & victimisation adopted by opposite party.

4. Before the termination of the workman seniority list was neither prepared nor published by the opposite party which is violation of Rule 77 of Industrial Disputes Rules, 1958. At the time of termination of the service workmen junior to the applicant were retained in service by the opposite party in violation of section 25-G of Industrial Dispute Act, 1947. The opposite party has made new appointment after termination of the services of the applicant workman but no priority was given to the applicant which is violation of section 25-H of Industrial Disputes Act, 1947 & Rule 78 of Industrial Disputes Rule, 1958. It has been further alleged by the applicant that applicant requested the opposite party to take the applicant in his employment but he was not taken back & due to non co-operation of opposite party conciliation also failed before the Conciliation Officer. The opposite party has accepted before the Conciliation Officer that applicant was kept on work & work was taken from him, hence, the relation of employer & workman has not been denied by the opposite party but to escape from the liability of illegal termination it has been denied that opposite party is 'Industry' within the meaning of definition provided in Industrial Disputes Act, 1947. The true position is that according to the activities &

work the opposite party is an 'industry' according to the definition of industry provided under Industrial Disputes Act, 1947. The provisions of Industrial Disputes Act, 1947 have not been followed by opposite party, hence, the termination of the services of the workman is illegal & unfair.

5. It has been further alleged that allegation of the opposite party before the Conciliation Officer is that the applicant workman was absent from duty from 15.3.2006 to 8.6.2006 but workman was not given any show cause notice. Neither any charge sheet was served upon him regarding absence from place of duty nor any charge was proved. The applicant had made his stand clear before the management that he has not remained absent during above said period & instead of absence he has been working in that period. The applicant had completed more than two years of service & he was demanding from the opposite party to declare him semi permanent employee. As a result of above demand of the applicant the opposite party instead of making him semi permanent terminated the services of the applicant. The applicant is jobless since the date of termination. It is, therefore, requested that termination order dated 30.8.06 be declared illegal & applicant reinstated with all pay & emoluments along with continuity in service.

6. In reply statement in paras 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 & 20 of the statement of claim have been specifically denied. In additional reply it has been alleged in para 2 that the applicant labourer was not appointed by the opposite party & he was engaged as casual labourer for carrying out casual work on the basis of part time contract & such engagement was coming to end immediately after completion of the work. It has also been alleged that the applicant labourer has never completed 240 days in any year & applicant is under an obligation to prove this fact by document. Statement of para 5 of statement of claim has been said to be baseless & nature of the work for which applicant was engaged is alleged to be casual. Against para 7 it has been alleged that to succeed in his sinister design applicant has fabricated the statement.

7. It has been alleged against para 8 of the statement of claim that applicant was called for a fixed works & his services were coming to end after completion of the work. Relation between applicant & opposite party as workman & employer has been specifically denied against para 9 of the statement of claim & has been alleged that since he was never appointed the question of such relationship does not arise. The applicant does not fall within the definition of workman & the department of the opposite party does not fall within the definition of Industry. Applicant was never engaged permanently & he was called only when there was work. He was neither appointed on any post after following the rules of appointment nor any appointment letter was issued to him, therefore, question of termination of this services does not arise. It has been

alleged in para 11 of reply that it is pertinent to note that applicant was not removed from the institution of opposite party & the fact is that the work was over hence, his services automatically came to an end. It was not necessary to give notice to the applicant because such notice is issued only to such workman who permanently work for a period of more than 240 days & the department is not satisfied with work of such workman, in that event such workman may be removed after serving one month's notice. In case of applicant after completion of work he himself had gone elsewhere.

8. Against para 13 of statement of claim it has been alleged that workmen like applicant are not given any appointment letter neither they are deemed regular workmen of the department. Workman like applicant are engaged on daily wage basis according to need of a particular work for its execution & they are removed after completion of work or at the end of financial year or on other technical ground on suspension or stoppage of work. Against para 14 of statement of claim it has been alleged that nature of the new recruitment by the department whose nature is permanent is done by following the legal procedure & selection is made out of person who possess the prescribed eligibility. Applicant was not appointed on any vacant post under grade 'D'. At the time of engaging the applicant workman he was briefed orally that he is engaged against a specific work & nature of the work is purely temporary & casual in which applicant is not entitled to derive benefit of provisions of Industrial Disputes Act. The allegation of the applicant is wrong that he was removed out of animosity. In absence of casual work the services of the workman automatically comes to an end. In last paragraph of the reply it has been prayed that order of dismissal be passed against the statement of claim.

9. In rejoinder dated 3.6.2010 filed by applicant, statement of claim has been reiterated & statement of reply submitted by the opposite party has been alleged to be wrong.

10. In preliminary objection against statement of claim filed by opposite party it has been alleged that applicant was neither given any appointment nor there was any sanctioned or vacant post. Department of the opposite party is not covered within the definition of industry as provided in section 2(j) of Industrial Disputes Act. In B-40/97, Gobardhan Lal Meena v/s Archaeological Survey of India, It has been held by the Hon'ble Tribunal in its award dated 18.1.2001 that Archaeological Survey of India is not covered within the definition of industry. Industrial Tribunal, Jabalpur in its award dated 9.6.2003 has held that Archaeological Survey of India is not an 'Industry' within the meaning of section 2(j) of Industrial Disputes Act. It has also been alleged that the applicant was engaged for completion of casual work for fixed period of time & he has not worked for 240 days in any of the year,

hence, he is not entitled to the benefit of Industrial Dispute Act. It has also been alleged that the applicant left the work on his own even before the completion of the work, hence, he is not entitled to any relief.

11. Against preliminary objection it has been alleged by the applicant that preliminary objections are not tenable at belated stage. It has also been alleged that various precedents it has been alleged that preliminary objections are to be decided along with other issues on merits. It has also been alleged that preliminary objections are evidence based, hence, opposite party be directed to file the reply to the statement of claim.

12. Under mentioned issues were framed on 27.7.2011 by the then learned Presiding Officer of the Tribunal, based on pleadings of both the parties:—

- (1) Whether the workman had worked for more than 240 days as daily wager during period 9.8.03 to 30.8.06 preceding twelve months from the date of his alleged termination & whose service was terminated in violation of section 25-F of the Act?
- (2) At the time of terminating the service of the workman the juniors person to him were retained by the management in contravention of section 25-G of the I.D. Act?
- (3) Whether subsequent to the termination of the workman fresh hands were engaged by the non-applicant management in violation of section 25-H of the I.D. Act?
- (4) Whether non-applicant establishment is an 'industry' within the meaning of section 2-J of the I.D. Act?

13. Applicant has filed document w-1 which is reply of opposite party before conciliation proceeding, affidavit of the applicant in evidence and statement of number of working days in calendar year 2003, 2004, 2005 & 2006. Applicant has been cross examination by opposite party on his affidavit.

14. In documentary evidence, opposite party has filed statement of payment made to applicant & other workmen which is 18 page. This document has been filed on direction of tribunal given on application of the applicant. Opposite party has filed affidavit of Sh. Brijraj Singh in evidence. Sh. Brijraj Singh has been cross examined on 28.10.14 by applicant side.

15. I have heard the argument of Learned Counsel for both the parties & perused the file. Written argument have been filed by both the parties which is on record.

16. Following citations have been referred on behalf of applicant:—

- i. 1976 LLJ, Supreme Court 478, State Bank of India.....Appellant v/s. Sundaramoney.....Respondent.
- ii. Judgement & order dated 21.2.1978 in civil appeal no. 753-754(T) of 1975, Bangalore Water Supply & Sewerage Board etc. etc v/s A. Rajappa & others etc. etc.
- iii. 1983 LAB.I.C. 1629 (Supreme Court), D.P. Maheshwari.....Appellant v/s Delhi Administration & others.....Respondents.
- iv. Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No. 78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi v/s The Director General, Archaeological Survey of India, Janpath, New Delhi.
- v. RLR 1991(2), Jaipur Bench, Oriental Bank of Commerce.....Appellant v/s Presiding Officer, Central Govt. Industrial Tribunal & others (23).
- vi. RLR 1991 (2), Jaipur Bench, Surya Prakash Sharma.....Petitioner v/s Rajasthan Text Book Board, Jaipur & other (122).....Respondent.
- vii. Award dated 17.11.2008 passed by Industrial Tribunal-cum-Labour Court, Kanpur, in Industrial Dispute No. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra vs Suresh Chandra.

17. Following citations have been referred on behalf of opposite party:-

- i. Award dated 26.11.1986 passed by Central Administrative Tribunal, Ahmedabad in O.A. No. 33/86, Govind Kanji Parmar & othersPetitioner vs Union of India & others.....Respondents.
- ii. Award dated 30.10.1996 passed by Central Administrative Tribunal, Jodhpur Bench, Jodhpur in O.A. No. 331 to 334/1993, Devi Singh & others..... petitioners vs Union of India & others..... Respondents.
- iii. Award dated 18.1.2001 passed by Central Government Industrial Tribunal-cum-Labour Court, Jaipur in CGIT case No. B-40/97 in Goverdhan Lal Meena vs Director (Science), Archaeological Survey of India, Science Branch, Deharadun.

18. It has been argued by the Learned Counsel for the applicant that applicant has completed continuous 240 days of service in every year but he has removed from service by opposite party in violation of section 25-F, 25-G & 25-H of the Industrial Disputes Act, 1947. It has also been argued that contention of the opposite party is against the law that Archaeological Survey of India is not an 'Industry'

within the meaning of section 2(j) of the Act. Against this it has been argued by Learned Counsel for the opposite party that Archaeological Survey of India is not an 'Industry' & there is no violation of section 25-F, G & H of the Act. It has also been argued that applicant was neither appointed nor any appointment letter was issued. There was no advertisement for recruitment. It has also been argued that applicant was engaged on part time contract for casual work of repair & soon after completion of the work engagement of applicant was over. It has also been alleged that his engagement was on daily wage & as the work of repair of the all wall was of temporary character hence, on account of end of job & none availability of further job the applicant himself had left the place of job. It has also been argued that whenever there is availability of work, workmen are engaged on daily wage basis for the job. Reference has been made by both the parties towards precedents submitted by them in favour of their respective claim.

19. Before issue No. 1 is decided it appears desirable to take up issues 2, 3 & 4 for decision because decision of these issues are important & having relevance in decision of issue No. 1.

Issue No. 2

20. This issue relates to violation of section 25-G of Industrial Disputes Act, 1947 in terminating the services of applicant. Section 25-G of Industrial Disputes Act, 1947 reads as under:-

"Section 25-G. Procedure for retrenchment.—Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman."

21. From perusal of the provision contained in section 25-G it appears that whenever in ordinary course of business a workman is required to be retrenched then the last person employed by the employer shall be retrenched first unless there is special reason for retrenchment of a person other than the last employed person. From perusal of statement of claim it is evident that in para 13 it has been alleged that there has been violation of section 25-G of Industrial Disputes Act, 1947 in terminating the services of the applicant & junior to the applicant was retained in service at the time of his removal but no one has been named in statement of claim that who is the person junior to the applicant who was retained. In the affidavit also filed by applicant as evidence there is no mention of a person junior to the applicant who was retained in the service at the time

of his removal. In the cross examination of the applicant on page 2 this question has been placed before him & he has alleged that when he was removed at that time all other workmen were also removed. This statement of the applicant during cross-examination obviously indicates that no one junior to him was retained & removal of all the workman together is also indicative of the fact of Cessation or completion of a particular work for which they are engaged. Here, it is also pertinent to note that it has been repeatedly argued by Learned Counsel for opposite party that in fact there has been no appointment, therefore, the question of removal of the applicant from employment does not arise. From the perusal of the cross-examination of Sh. Brijraj Singh, Deputy Superintendent (Archaeology) it is clear that no assistance can be taken on this point from his cross-examination. Bases on above discussion, it is clear that the applicant has failed to prove that the time of termination of the service of applicant workman, juniors to him were retained by the management in contravention of section 25-G of the I.D. Act. Issue No. 2 is accordingly decided in negative against the applicant.

Issue No. 3

22. This issue is to the effect that whether subsequent to the termination of the workman fresh workmen were engaged by the non-applicant management in violation of section 25-H of the I.D. Act. For convenience provision of section 25-H4 is reproduced below which reads as under:-

"Sec. 25-H. Re-employment of retrenched workmen.—

Where any workmen are retrenched, and the employer purposes to take into his employ any persons he shall, in such manner as may be prescribed, give an opportunity to the retrenched workmen who are citizens of India to offer themselves for re-employment, and such retrenched workmen, who offer themselves for re-employment shall have preference over other persons.

23. The above mentioned section 25-H provides that a retrench employee shall have preference in appointment over rest, if management, intends to employ a workman & the management is under an obligation to give opportunity to retrench workman so that he can offer himself for employment. If opportunity is not given by management it will amount to violation of section 25-H of I.D. Act. Para 14 of statement of claim indicates that after termination of the services of applicant new appointments were made without preference given to applicant. In reply to para 14 of statement of claim non-applicant has denied the appointment. There is no documentary evidence on record about new appointment. Para 6 of affidavit of applicant field in evidence indicates that new appointments were made with no preference to applicant but in cross examination applicant has admitted that in his affidavit & statement of claim he has not alleged that after his removal who was appointed & when. The applicant has also

admitted that in statement of claim also he has not given detail of newly appointed persons. In para 11 of affidavit of Sh. Brijraj Singh witness for opposite party violation of section 25-G & H has been specifically denied. He cross-examination of Sh. Brijraj Singh there is nothing significant to draw an inference about violation of section 25-H of I.D. Act..Based on above discussion & appreciation of evidence adduced by the parties I am of the view that the applicant has failed to prove the violation of section 25-H of the I.D. Act regarding appointment of fresh hands subsequent to termination of his service. Issue No. 3 is accordingly decided against the applicant.

Issue No. 4

24. This issue is to the effect that whether establishment of the non-applicant Archaeological Survey of India is an Industry within the meaning of section 2(j) of the I.D. Act. A preliminary objection has been raised by non-applicant that establishment of the non-applicant is not covered under definition of 'Industry' as indicated in section 2(j) of the I.D. Act. Reliance has been placed by non-applicant on Award dated 18.1.2001 passed by Central Government Industrial Tribunal-cum-Labour Court, Jaipur in CGIT case No. B-40/97 in Goverdhan Lal Meena vs Director (Science), Archeological Survey of India, Science Branch, Dehradun. Against this, it has been argued by Learned Counsel for applicant that establishment of non-applicant is covered by the definition of 'Industry'. Reliance has been placed by non-applicant on Judgement & order dated 21.2.1978 in civil appeal No. 753-754(Y) of 1975, Bangalore Water Supply & Sewerage Board etc. etc vs Rajappa & Others etc. etc., Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No. 78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi vs The Director General, Archaeological Survey of India, Janpath, New Delhi & Award dated 17.11.2008 passed by Industrial Tribunal Cum Labour Court, Kanpur, in Industrial Dispute No. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra vs Suresh Chandra. I have very carefully gone through cases cited by both the parties.

25. In Award dated 18.1.2001 passed by Central Government Industrial Tribunal Cum Labour Court, Jaipur in CGIT case No. B-40/97 in Goverdhan Lal Meena vs Director (Science), Archaeological Survey of India, Science Branch, Dehradun, cited by Learned Counsel for the opposite party it has been held in decision of issue No. 4 that provision of I.D. Act, 1947 apply to the case. Issue No. 4 has dealt with the fact that provisions of I.D. Act apply to the opposite party or not. Cases cited by learned counsel for the applicant indicate that Archaeological Survey of India is covered within the definition of 'Industry' as provided in section 2(j) of the I.D. Act. In Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No.

78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi vs The Director General, Archaeological Survey of India, Janpath, New Delhi discussing the case of Judgement & order dated 21.2.1978 in civil appeal No. 753-754(T) of 1975, Bangalore Water Supply & Sewerage Board etc. etc vs A. Rajappa & others etc. etc., it has been held by the CGIT, Delhi that Archaeological Survey of India is an 'Industry'. In Award dated 17.11.2008 passed by Industrial Tribunal-cum-Labour Court, Kanpur, in Industrial Dispute No. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s. Suresh Chandra, it has been held by CGIT, Kanpur that Archaeological Survey of India is an 'Industry'. From decision of the cases cited on behalf of both the parties & from the fact & circumstances of the present case, I am of the view that establishment of non-applicant Archaeological Survey of India is an 'Industry' within the meaning of section 2(J) of Industrial Disputes Act, 1947. Issue No.4 is accordingly decided in affirmative against the non-applicant.

Issue No.1

26. This issue is to the effect whether the workman had worked for more than 240 days as daily wager during period 19.08.2003 to 30.08.2006 preceding twelve months from the date of his alleged termination & whether his service was terminated in violation of section 25-F of the Act? It has been argued by Learned Counsel for the applicant & has also been alleged in the written argument that the applicant has worked for more than 240 days as daily wager during period of 12 months immediately preceding the date of termination on 30.08.2006 & termination of the services of applicant is in violation of section 25-F of Industrial Disputes Act, hence, the order of termination is fit to be set aside with continuity in service along with back wages. Against this, it has been argued by the Learned Counsel for the opposite party & has also been alleged in the written argument that applicant was not appointed by non-applicant, no appointment letter was issued, there was no advertisement for any appointment. It has also been argued that applicant was engaged on daily wage basis for repair of the walls of the fort which is a work of temporary nature. It has also been argued that applicant voluntarily left the place of work on account of none availability of work. It has also been said that on availability of work engagement is made on daily wage basis for the period of work only & provision of section 25-F is not attracted in the case of applicant. It has also been alleged that in view of case of the applicant covered under section 2(o) (bb) of the I.D.Act, compliance of provision of section 25-F is not required.

27. According to statement of claim applicant was appointed on daily wage 09.08.2003 & was terminated on

30.08.2006 without notice or pay in lieu of notice or retrenchment compensation in violation of section 25-F of I.D. Act. What was the post held by the applicant during employment has not been alleged in statement of claim. About the nature of the work the applicant has alleged that whatever work was assigned by the opposite party applicant was performing that work. It has also been alleged that his engagement was neither for a fix work nor for a fix period. The applicant has alleged that he has worked for more than 240 days in every year. In affidavit filed in evidence in support of above statement of claim the applicant has repeated the allegation of statement of claim. No other co-worker has been produced as witness in evidence to support the allegation of statement of claim. In written statement it has been specifically denied by opposite party that applicant has worked for more than 240 days in a year instead it has been alleged that applicant has not worked for 240 days in any of the year. Sh. Brijraj Singh has specifically denied in para 3 of his affidavit that the applicant has worked for 240 days in any of the year. In above fact & circumstances, the burden of proof lies on applicant to prove that he has worked for more than 240 days in a year immediately preceding the date of his termination on 30.8.06 as alleged in statement of claim. The applicant has alleged in his cross-examination that he has not stated in his affidavit in evidence or in statement of claim that for how many days he has worked in any corresponding year. He has admitted that he has filed document W-1 & in W-1 nature of work has been mentioned for which he was engaged & in W-1 it has also been mentioned that the nature of work includes 'special repair work' & such mention in W-1 is correct. Thus, it shall appear that two documents relating to total number of days of work has been filed by the applicant which is W-1 & W-2. W-2 is the document which appeared to be prepared by workman whereas W-1 is the document which appears to be reply submitted by management during conciliation proceedings. From document W-2 if taken into consideration for calculating the period of 240 days immediately preceding the date of termination on 30.08.2006 then total number of days on which the workman has worked between 30.08.2005 to 30.08.2006 comes out to be 104 days. From document w-1 it comes out to be 120 days but lacks continuity. Thus, workman has failed to prove that he has continuously worked for more than 240 days in the year immediately preceding the date of his termination. It shall also appear from both the documents W-1 & W-2 that there is no continuous work in the year.

28. Document regarding period & corresponding working days filed by management on order of the tribunal

passed on application of the applicant provides following detail:-

Period of work	Number of working days.
19.2.2003 to 20.3.2003	28 days
25.7.03 to 24.8.03	09
25.8.03 to 1.9.03	08
19.1.04 to 16.2.04	29
13.4.04 to 13.5.04	27
15.5.04 to 14.6.04	22
9.6.04 to 9.7.04	27
11.7.04 to 10.8.04	29
12.8.04 to 11.9.04	27
14.10.04 to 31.10.04	17
1.11.04 to 28.11.04	25
4.1.05 to 3.2.05	28
6.2.05 to 8.3.05	27
6.6.05 to 6.7.05	27
8.11.05 to 8.12.05	28
11.12.05 to 10.1.06	27
12.2.06 to 14.3.06	25
9.6.06 to 10.7.06	24
Total number of days between 30.8.05 to 30.8.06	104 days.

29. The statement of above table submitted by opposite party regarding statement of work done by workman indicates that from the date of termination on 3.8.06 applicant has worked only for 104 days in a year immediately preceding the date of termination on 30.08.06. Thus, it is evident that the workman has not worked continuously for 240 days immediately preceding the date of termination. From the above discussion it is clear that applicant has failed to prove that he has worked for more than 240 days immediately preceding the date of termination. From the entire cross examination of Sh. Brijraj Singh there appears nothing to derive in favour of applicant that he has worked for more than 240 days in a year preceding the date of termination. From the above discussion it is clear that applicant has failed to prove that he has continuously worked for more than 240 days in a year immediately preceding the date of his termination.

30. As far as the question of violation of section 25-F of Industrial Dispute is concerned it has been argued by the learned counsel for the applicant that there has been violation of section 25-F in terminating the services of the applicant, against this learned counsel for the opposite party has argued that there is no violation of section 25-F of I.D. Act & section 25-F does not apply in the case of applicant who was neither employed nor terminated & his

engagement has been only for specific period & specific work & he has left the workplace on his own accord. It has also been argued that as the question of terminating the services of the applicant does not arise, because he was not given any employment & there was no advertisement for employment, hence, section 25-F does not apply to the case of the applicant. Section 25-F reads as under:—

"25-F. Conditions precedent to retrenchment of workmen.—No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until:—

- (a) The workman has been given on month's notice in writing indicating the reasons for retrenchment and the period of notice has expire, or the workman has been paid in lieu of such notice, wages for the period of the notice;
- (b) The workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and
- (c) notice in the prescribed manner is served on the appropriate Government (or such authority as may be specified by the appropriate Government by notification in the Official Gazette.)

31. Continuous service as indicated in section 25-F(1) has been defined in section 25-B (1) (ii) which reads as under:—

Section 25-B. Definition of continuous service.—For the purposes of this Chapter:—

- (1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman.
- (2) where a workman is not in continuous service within the meaning of Clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer:—
 - (a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than:—
 - (i) One hundred and ninety days in the case of a workman employed below ground in a mine; and

- (ii) two hundred and forty days, in any other case;

32. Section 2 (oo) provides meaning of retrenchment which reads as under:—

“2(oo)—‘retrenchment’ means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include—

- (a) Voluntary retirement of the workman; or
- (b) Retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or
- (bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or
- (c) termination of the service of a workman on the ground of continued ill-health;

33. In 2006 Supreme Court Cases (L and S) 38, Surendranagar District Panchayat.... Appellant V/s Dahyabhai Amarsinh..... Respondent, taking together and analyzing the integrated impact of section 2(oo), section 25-B and section 25-F in paragraph 7 page 43, it has been held by Hon'ble Supreme Court, "..... To attract provisions of Section 25-F, the workman claiming protection under it, has to prove that there exists relationship of employer and employee; that he is a workman within the meaning of section 2(s) of the Act; the establishment in which he is employed is an industry within the meaning of the Act and he must have put in not less than one year of continuous service as defined by section 25-B under the employer. These conditions are cumulative. If any of these conditions is missing the provisions of section 25-F will not be attracted. To get relief from the court the workman has to establish that he has right to continue in service and that his service has been terminated without complying with the provisions of section 25-F of the Act. The section postulates three conditions to be fulfilled by an employer for getting a valid retrenchment, namely:—

- (i) one month's clear notice in writing indicating the reasons for retrenchment or that the workman has been paid wages for the period of notice in lieu of such notice;
- (ii) payment of retrenchment compensation which shall be equivalent of 15 days' average pay for every completed year of continuous service or any part thereof, in excess of six months;

- (iii) a notice to the appropriate Government in the prescribed manner.

34. Looking into the above provisions and the law laid down by the Hon'ble Supreme Court to attract the provision of section 25-F, it is clear that the applicant has failed to prove that he has worked continuously for more than 240 days in a calendar year immediately preceding the date of his termination, thus, provision of section 25-F is not attracted in the case of applicant. From above discussion, I am of the view that the applicant has not worked continuously for more than 240 days as daily wage immediately preceding 12 months from the date of his alleged termination on 30.8.06 and his services were not terminated in violation of section 25-F of Industrial Disputes Act. Issue No. 1 is accordingly decided in negative against the applicant.

35. It has been argued by the learned counsel for the applicant that even if section 25-F is not attracted in case of applicant, he is entitled to the benefits of section 25-G and 25-H which are independent of section 25-F. Reliance has been placed on RLR 1991(2), Jaipur Bench, Oriental Bank of Commerce.....Appellant v/s Presiding Officer, Central Govt. Industrial Tribunal and others and RLR 1991 (2), Jaipur Bench, Surya Prakash Sharma..... Petitioner v/s Rajasthan Text Book Board, Jaipur and other (122)..... Respondent. Against this it has been argued by learned counsel for opposite party that provision of section 25-G and 25-H is not attracted in the case of applicant. I have carefully gone through both the above reported cases.

36. In case of Oirental Bank of Commerce v/s Presiding Officer respondent 2 was employed in the bank of petitioner from 23.5.85 to 28.5.85 for a period of 79 days. He was said to be appointed for leave period only and his engagement came to end after expiry of period of leave. The respondent raised industrial dispute relating to section 25-G and 25-H which was referred for adjudication After the evidence of both the parties tribunal came to the conclusion that there was violation of section 25-G and section 25-H hence, respondent was directed to be reinstated and it was also directed that he will entitled to pay from the date of joining because respondent was said to be on the job in some other place. On the basis of evidence tribunal came to conclusion that management had failed to indicate that who was on leave in whose place respondent was employed during leave vacancy, hence, this fact was not admitted by tribunal that engagement of respondent was for the period of leave vacancy. It was admitted by the witness of the management that when respondent was removed from service employee Sh. Virendra Singh junior to the respondent was working. It was also admitted by management witness that after removal of respondent Sh. Mulan Rasool and Sh. Narendra Bhatt were appointed on the post of peon but respondent was not given opportunity. Thus, there was violation of section 25-G and 25-H. Petition. against the order of tribunal was dismissed by Division Bench of Hon'ble High Court and award of the tribunal was confirmed.

37. In RLR 1991 (2), Jaipur Bench, Surya Prakash Sharma.....Petitioner v/s Rajathan Text Book Board, Jaipur and others (122)..... Respondent, it has been held by Hon'ble High Court that section 25-G, 25-H and 25-F are independent of each other and section 25-G and 25-H are not dependent on section 25-F. It has also been held that section 25-G and 25-H are applicable irrespective of the fact that the workman has completed 240 days of service or not. It has been further held that rule 76 to 78 of Industrial Dispute Rules, 1957 are independent of each other and mandatory in nature. Violation of these rules will give a cause of action in favour of workman to claim compensation, damages and re-employment. To derive the benefits of these rules continuous service is not necessary and workmen not having completed 240 days of service are also entitled to the benefits of Rule 76 to 78. In this case petitioner Sh. Suryaprakash Sharma was retrenched from service before completion of 240 days and was not entitled for the benefits u/s 25 of I.D. Act. The only question involved in this case was about applicability of section 25-H of I.D. Act read with Rule 77 and 78. The casewe of the respondent was that after discharge of petitioner of 1.11.88 they had employed few persons although persons who employed were discharged on 19.8.89. The petition of the petitioner was allowed and he was held entitled to claim wages by way of compensation for the period during which his junior remain in employment.

38. In 1976 LLJ, Supreme Court 478, State Bank of India.....Appellant v/s N. Sundaramoney.....Respondent, it has been held by Hon'ble Supreme Court that read with section 25-B(2) if provision of section 25-F of Industrial Dispute Act is attracted in case of the workman, he cannot be retrenched without payment of compensation at the time of retrenchment as prescribed therein. It is pertinent to mention that facts and circumstances of the present case are different comparing to the facts of State Bank of India v/s N. Sundaramoney, hence law laid down by Hon'ble Supreme Court in State Bank of India v/s N. Sundaramoney is not attracted in the present case.

39. From decision of issue no.2 and 3 it is clear that applicant is not entitled to the benefit for violation of section 25-G and 25-H of Industrial Dispute Act because violation of these two sections have not been proved by the applicant. It is also clear from the evidence on record that no seniority list is in existence as the case of opposite party is that there was no employment in respect of applicant and he was only engaged casually as and when there was existence of work. Applicant has not proved his appointment or termination by filing any documentary evidence in this behalf who was engaged as daily wage. It has been held by Hon'ble Supreme Court in 2006 Supreme Court Cases (L and S) 38, Surendranagar District Panchayat.....Appellant V/s Dahyabhai Amarsinh..... Respondent, in para 18 of the judgement in relation to section 25-G and section 25-H as under:—

.....In the absence of regular employment of the workmen, the appellant was not expected to maintain seniority list of the employees engaged on daily wages and in the absence of any proof by the respondent regarding existence of the seniority list and his so-called seniority, no relief could be given to him for non-compliance with provisions of the Act. The courts could have drawn adverse inference against the appellant only when seniority list was proved to be in existence and then not produced before the court. In order to entitle the court to draw inference unfavourable to the party, the court must be satisfied that evidence is in existence and could have been proved". Finding of Hon'ble Supreme Court in 2006 Supreme Court Cases (L and S) 38, Surendranagar District PanchayatAppellant V/s Dahyabhai Amarsinh.....Respondent, is relevant and applies to the case of applicant.

40. Bases on the findings related to issue no. 1 to 4 and from the discussions as above, I am of the view that applicant is not entitled to any relief as prayed in the statement of claim and action of the management of Archaeological Survey of India in terminating the services of the workman Sh. Bhagchand Mali *w.e.f.* 30.8.6 without following the provisions of section 25F, 25-G and 25-H of Industrial Disputes Act, 1947 is legal and justified.

41. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 25 जून, 2015

का.आ. 1308.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आर्कियोलॉजिकल सर्वे ऑफ इंडिया राजस्थान के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ सं० 52/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24.06.2015 को प्राप्त हुआ था।

[सं० एल-42012/30/2007-आईआर(डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 25th June, 2015

S.O. 1308.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 52/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Archaeological Survey of India, Rajasthan and their workmen, which was received by the Central Government on 24.06.2015.

[No. L-42012/30/2007-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JAIPUR****BHARAT PANDEY,
PRESIDING OFFICER**

I.D. 52/2007

Reference No. L-42012/30/2007-IR (DU) dated 23.07.2007

Sh. Radhye Shyam Mali
S/o Shri Korya Mali
R/o Allamur, Tehsil Khandar,
Sawai Madhopur (Rajasthan)

V/s

The Regional Officer
Archaeological Survey of India
Ranthambhor Durg,
Sawai Madhopur (Rajasthan)For the Applicant : Shri M.F. Beig, Advocate
For the Non-applicant : Sh. T.P. Sharma, Advocate**AWARD**

18.05.2015

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-section 1 and 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:—

"Whether the action of the management of Archaeological Survey of India, in terminating the services of their workman Shri Radhye Shyam Mali, w.e.f. 30.08.2006, without following the provisions of Sections 25F, 25G and 25H of the Industrial Dispute Act, 1947 is legal and justified? If not, to what relief the workman is entitled to?"

2. The fact of the case in brief is that the applicant workman was appointed as daily wager on 09.09.03. He was discharging his duty since appointment honestly and there was no complaint by opposite party against his work. Whatever work was assigned to the applicant he completed that work to best of his ability. Applicant was never served with any notice and no charge was ever proved against him.

3. He was appointed on daily wage but his period of appointment or nature of work was not fixed. The work for which he was appointed by opposite party is still existing and the nature of work is permanent. The applicant is 'workman' and the opposite party is 'employer' according to the definition of 'workman' and 'employer' provided in Industrial Disputes Act, 1947. The applicant had worked for more than 240 days in a calendar year immediately preceding the date of termination and his services were terminated on 30.08.06 without giving any notice or any

payment in lieu of notice or retrenchment compensation in violation of section 25-F of Industrial Disputes Act, 1947. His termination is unfair labour practice and victimisation adopted by opposite party.

4. Before the termination of the workman seniority list was neither prepared nor published by the opposite party which is violation of Rule 77 of Industrial Disputes Rules, 1958. At the time of termination of the service workmen junior to the applicant were retained in service by the opposite party in violation of section 25-G of Industrial Disputes Act, 1947. The opposite party has made new appointment after termination of the services of the applicant workman but no priority was given to the applicant which is violation of section 25-H of Industrial Disputes Act, 1947 and Rule 78 of Industrial Disputes Rule, 1958. It has been further alleged by the applicant that applicant requested the opposite party to take the applicant in his employment but he was not taken back and due to non co-operation of opposite party conciliation also failed before the Conciliation Officer. The opposite party has accepted before the Conciliation Officer that applicant was kept on work and work was taken from him, hence, the relation of employer and workman has not been denied by the opposite party but to escape from the liability of illegal termination it has been denied that opposite party is 'Industry' within the meaning of definition provided in Industrial Disputes Act, 1947. The true position is that according to the activities and work the opposite party is an 'industry' according to the definition of industry provided under Industrial Disputes Act, 1947. The provisions of Industrial Disputes act, 1947 have not been followed by opposite party, hence, the termination of the services of the workman is illegal and unfair.

5. It has been further alleged that allegation of the opposite party before the Conciliation Officer is that the applicant workman was absent from duty from 15.03.2006 to 08.06.2006 but workman was not given any show cause notice. Neither any charge sheet was served upon him regarding absence from place of duty nor any charge was proved. The applicant had made his stand clear before the management that he has not remained absent during above said period and instead of absence he has been working in that period. The applicant had completed more than two years of service and he was demanding from the opposite party to declare him semi permanent employee. As a result of above demand of the applicant the opposite party instead of making him semi permanent terminated the services of the applicant. The applicant is jobless since the date of termination. It is, therefore, requested that termination order dated 30.08.06 be declared illegal and applicant reinstated with all pay and emoluments along with continuity in service.

6. In reply statement in para 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 of the statement of claim

have been specifically denied. In additional reply it has been alleged in para 2 that the applicant labourer was not appointed by the opposite party and he was engaged as casual labourer for carrying out casual work on the basis of part time contract and such engagement was coming to end immediately after completion of the work. It has also been alleged that the applicant labourer has never completed 240 days in any year and applicant is under an obligation to prove this fact the document. Statement of para 5 of statement of claim has been said to be baseless and nature of the work for which applicant was engaged is alleged to be casual. Against para 7 it has been alleged that to succeed in his sinister design applicant has fabricated the statement.

7. It has been alleged against para 8 of the statement of claim that applicant was called for a fixed works and his services were coming to end after completion of the work. Relation between applicant and opposite party as workman and employer has been specifically denied against para 9 of the statement of claim and has been alleged that since he was never appointed the question of such relationship does not arise. The applicant does not fall within the definition of workman and the department of the opposite party does not fall within the definition of Industry. Applicant was never engaged permanently and he was called only when there was work. He was neither appointed on any post after following the rules of appointment nor any appointment letter was issued to him, therefore, question of termination of his services does not arise. It has been alleged in para 11 of reply that it is pertinent to note that applicant was not removed from the institution of opposite party and the fact is that the work was over hence, his services automatically came to an end. It was not necessary to give notice to the applicant because such notice is issued only to such workman who permanently work for a period of more than 240 days and the department is not satisfied with work of such workman, in that event such workman may be removed after serving one months notice. In case of applicant after completion of work he himself had gone elsewhere.

8. Against para 13 of statement of claim it has been alleged that workmen like applicant are not given any appointment letter neither they are deemed regular workmen of the department. Workman like applicant are engaged on daily wage basis according to need of a particular work for its execution and they are removed after completion of work or at the end of financial year or on other technical ground on suspension or stoppage of work. Against para 14 of statement of claim it has been alleged that nature of the new recruitment by the department whose nature is permanent is done by following the legal procedure and selection is made out of person who posses the prescribed eligibility. Applicant was not appointed on any vacant post under grande 'D'. At the time of engaging the applicant workman he was briefed

orally that he is engaged against a specific work and nature of the work is purely temporary and casual in which applicant is not entitled to derive benefit of provisions of Industrial Disputes Act. The allegation of the applicant is wrong that he was removed out of animosity. In absence of casual work the services of the workman authomatically comes to an end. In last paragraph of the reply it has been prayed that order of dismissal be passed against the statement of claim.

9. In rejoinder dated 03.06.2010 filed by applicant, statement of claim has been reiterated and statement of reply submitted by the opposite party has been alleged to be wrong.

10. In preliminary objection against statement of claim filed by opposite party it has been alleged that applicant was neither given any appointment nor there was any sanctioned or vacant post.

Department of the opposite party is not covered within the definition of industry as provided in section 2(j) of Industrial Disputes Act. In B-40/97, Gobardhan Lal Meena v/s Archaeological Survey of India, it has been held by the Hon'ble Tribunal in its award dated 18.1.2001 that Archaeological Survey of India is not covered within the definition of industry. Industrial Tribunal, Jabalpur in its award dated 9.6.2003 has held that Archaeological Survey of India is not an 'Industry' within the meaning of section 2(j) if Industrial Disputes Act. It has also been alleged that the applicant was engaged for completion of casual work for fixed period of time and he has not worked for 240 days in any of the year, hence, he is not entitled to the benefit of Industrial Dispute Act. It has also been alleged that the applicant left the work on his own even before the completion of the work, hence, he is not entitled to any relief.

11. Against preliminary objection it has been alleged by the applicant that preliminary objections are not tenable at belated stage. It has also been alleged that various precedents it has been alleged that preliminary objections are to be decided along with other issues on merits. It has also been alleged that preliminary objections are evidence based, hence, opposite party be directed to file the reply to the statement of claim.

12. Under mentioned issues were framed on 27.7.2011 by the then learned Presiding Officer of the Tribunal, based on pleadings of both the parties:—

- (1) Whether the workman had worked for more than 240 days as daily wager during period 9.9.03 to 30.8.06 preceding twelve months from the date of his alleged termination and whose service was terminated in violation of section 25-F of the Act?
- (2) At the time of terminating the service of the workman the juniors person to him were retained by the

management in contravention of section 25-G of the I.D. Act?

- (3) Whether subsequent to the termination of the workman fresh hands were engaged by the non-applicant management in violation of section 25-H of the I.D. Act?
- (4) Whether non-applicant establishment is an 'industry' within the meaning of section 2-J of the I.D. Act?

13. Applicant has filed document W-1 which is reply of opposite party before conciliation proceeding, affidavit of the applicant in evidence and statement of number of working days in calendar year 2003, 2004, 2005 & 2006. Applicant has been cross examination by opposite party on his affidavit.

14. In documentary evidence, opposite party has filed statement of payment made to applicant & other workmen which is 24 page. This document has been filed on direction of tribunal given on application of the applicant. Opposite party has filed affidavit of Sh. Brijraj Singh in evidence. Sh. Brijraj Singh has been cross examined on 28.10.14 by applicant side.

15. I have heard the argument of learned counsel for both the parties & perused the file. Written argument have been filed by both the parties which is on record.

16. Following citations have been referred on behalf of applicant:—

- (i) 1976 LLJ, Supreme Court 478, State bank of India.....Appellant v/s N. Sundaramoney..... Respondent.
- (ii) Judgement and order dated 21.2.1978 in civil appeal No. 753-754(T) of 1975, Bangalore Water Supply and Sewerage Board etc.etc. v/s A. Rajappa and others etc.etc.
- (iii) 1983 LAB.I.C. 1629 (Supreme Court), D.P. Maheshwari...Appellant v/s Delhi Administration & others.....Respondents.
- (iv) Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No. 78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi v/s The Director General, Archaeological Survey of India, Janpath, New Delhi.
- (v) RLR 1991(2), Jaipur Bench, Oriental Bank of Commerce.....Appellant v/s/ Presiding Officer, Central Govt. Industrial Tribunal and others (23).
- (vi) RLR 1991 (2), Jaipur Bench, Surya Prakash Sharma.....Petitioner v/s Rajasthan Text Book Board, Jaipur and other (122).....Respondent.

- (vii) Award dated 17.11.2008 passed by Industrial Tribunal-Cum-Labour Court, Kanpur, in Industrial Dispute No. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s Suresh Chandra.

17. Following citations have been referred on behalf of opposite party:—

- (i) Award dated 26.11.1986 passed by Central Administrative Tribunal, Ahmedabad in O.A. No. 33/86, Govind Kanji Parmar and others.....Petitioner v/s Union of India and others.....Respondents.
- (ii) Award dated 30.10.1996 passed by Central Administrative Tribunal, Jodhpur Bench, Jodhpur in O.A. No. 331 to 334/1993, Devi Singh and others.....petitioners v/s Union of India and others.....Respondents.
- iii. Award dated 18.1.2001 passed by Central Government Industrial Tribunal-Cum-Labour Court, Jaipur in CGIT case No. B-40/97 in Goverdhan Lal Meena v/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun.

18. It has been argued by the learned counsel for the applicant that applicant has completed continuous 240 days of service in every year but he has removed from service by opposite party in violation of section 25-F, 25-G & 25-H of the Industrial Disputes Act, 1947. It has also been argued that contention of the opposite party is against the law that Archaeological Survey of India is not an 'Industry' within the meaning of section 2(j) of the Act. Against this it has been argued by learned counsel for the opposite party that Archaeological Survey of India is not an 'Industry' and there is no violation of section 25-F, G & H of the Act. It has also been argued that applicant was neither appointed nor any appointment letter was issued. There was no advertisement for recruitment. It has also been argued that applicant was engaged on part time contract for casual work of repair and soon after completion of the work engagement of the applicant was over. It has also been alleged that his engagement was on daily wage and as the work of repair of the wall was of temporary character hence, on account of end of job and none availability of further job the applicant himself had left the place of job. It has also been argued that whenever there is availability of work, workmen are engaged on daily wage basis for the job. Reference has been made by both the parties towards precedents submitted by them in favour of their respective claim.

19. Before issue No. 1 is decided it appears desirable to take up issues 2, 3 & 4 for decision because decision of

these issues are important and having relevance in decision of issue No. 1.

Issue No. 2

20. This issue relates to violation of section 25-G of Industrial Disputes Act, 1947 in terminating the services of applicant. Section 25-G of Industrial Disputes Act, 1947 reads as under:—

"Section 25-G. Procedure for retrenchment.—Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman."

21. From perusal of the provision contained in section 25-G it appears that whenever in ordinary course of business a workman is required to be retrenched then the last person employed by the employer shall be retrenched first unless there is special reason for retrenchment of a person other than the last employed persons. From perusal of statement of claim it is evident that in para 13 it has been alleged that there has been violation of section 25-G of Industrial Disputes Act, 1947 in terminating the services of the applicant & junior to the applicant was retained in service at the time of his removal but no one has been named in statement of claim that who is the person junior to the applicant who was retained. In the affidavit also filed by applicant an evidence there is no mention of a person junior to him who was retained in the service at the time of his removal. In the cross examination of the applicant on page 2 this question has been placed before him & he has alleged that when he was removed at that time all other workmen were also removed. This statement of the applicant during cross examination obviously indicates that no one junior to him was retained & removal of all the workman together is also indicative of the fact of Cessation or completion of a particular work for which they are engaged. Here, it is also pertinent to note that it has been repeatedly argued by learned counsel for opposite party that in fact there has been no appointment, therefore, the question of removal of the applicant from employment does not arise. From the perusal of the cross examination of Sh. Brijraj Singh, Deputy Superintendent (Archaeology) it is clear that no assistance can be taken on this point from his cross examination. Based on above discussion, it is clear that the applicant has failed to prove that at the time of termination of the service of applicant workman, juniors to him were retained by the management in contravention of section 25-G of the I.D. Act. Issue No. 2 is accordingly decided in negative against the applicant.

Issue No. 3

22. This issue is to the effect that whether subsequent to the termination of the workman fresh workmen were engaged by the non-applicant management in violation of section 25-H of the I.D. Act. For convenience provision of section 25-H is reproduced below which reads as under:

"Sec. 25-H. Re-employment of retrenched workmen—

Where any workmen are retrenched, and the employer purposes to take into his employ any persons he shall, in such manner as may be prescribed, give an opportunity to the retrenched workmen who are citizens of India to offer themselves for re-employment, and such retrenched workmen, who offer themselves for re-employment shall have preference over other persons.

23. The above mentioned section 25-H provides that a retrench employee shall have preference in appointment over rest, if management, intends to employ a workman & the management is under an obligation to give opportunity to retrench workman so that he can offer himself for employment. If opportunity is not given by management it will amount to violation of section 25-H of I.D. Act, Para 14 of statement of claim indicates that after termination of the services of applicant new appointments were made without preference given to applicant. In reply to para 14 of statement of claim non-applicant has denied the appointment. There is no documentary evidence on record about new appointment. Para 6 of affidavit of applicant filed in evidence indicates that new appointments were made with no preference to applicant but in cross examination applicant has admitted that in his affidavit & statement of claim he has not alleged that after his removal who was appointment & when. The applicant has also admitted that in statement of claim also he has not given detail of newly appointed persons. In para 11 of affidavit of Sh. Brijraj Singh witness for opposite party violation of section 25-G & H has been specifically denied. In cross examination of Sh. Brijraj Singh there is nothing significant to draw an inference about violation of section 25-H of I.D. Act. Based on above discussion & appreciation of evidence adduced by the parties I am of the view that the applicant has failed to prove the violation of section 25-H of the I.D. Act. regarding appointment of fresh hands subsequent to termination of his service. Issue no. 3 is accordingly decided against the applicant.

Issue no. 4

24. This issue is to the effect that whether establishment of the non-applicant Archaeological Survey of India is an Industry within the meaning of section 2(j) of the I.D. Act. A preliminary objection has been raised by non-applicant that establishment of the non-applicant is not covered under definition of 'Industry' as indicated in section 2(j) of the I.D. Act. Reliance has been placed by non-applicant on Award dated 18.1.2001 passed by Central Government

Industrial Tribunal-cum-Labour Court, Jaipur in CGIT case no. B-40/97 in Goverdhan Lal Meena v/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun. Against this, it has been argued by learned counsel for the applicant that establishment of non-applicant is covered by the definition of 'Industry'. Reliance has been placed by non-applicant on Judgement & order dated 21.2.1978 in civil appeal no. 753-754(T) of 1975, Bangalore Water Supply & Sewerage Board etc. etc. v/s A. Rajappa & others etc. etc., Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No. 78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi v/s The Director General, Archaeological Survey of India, Janpath, New Delhi & Award dated 17.11.2008 passed by Industrial Tribunal Cum Labour Court, Kanpur, in Industrial Dispute no. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s Suresh Chandra. I have very carefully gone through cases cited by both the parties. Judgement dated 9.6.03 by CGIT, Jabalpur has not been filed by opposite party.

25. In Award dated 18.1.2001 passed by Central Government Industrial Tribunal-cum-Labour Court, Jaipur in CGIT case no. B-40/97 in Goverdhan Lal Meena v/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun, cited by learned counsel for the opposite party it has been held in decision of issue no. 4 that provision of I.D. Act, 1947 apply to the case. Issue no. 4 has dealt with the fact that provisions of I.D. Act apply to the opposite party or not. Cases cited by learned counsel for the applicant indicate that Archaeological Survey of India is covered within the definition of 'Industry' as provided in section 2(j) of the I.D. Act. In Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. Act. No. 78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi v/s The Director General, Archaeological Survey of India, Janpath, New Delhi, discussing the case of Judgement & order dated 21.2.1978 in civil appeal no. 753-754(T) of 1975, Bangalore Water Supply & Sewerage Board etc. etc. v/s A. Rajappa & others etc. etc., it has been held by the CGIT, Delhi that Archaeological Survey of India is an 'Industry'. In Award dated 17.11.2008 passed by Industrial Tribunal-cum-Labour Court, Kanpur, in Industrial Dispute no. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s Suresh Chandra, it has been held by CGIT, Kanpur that Archaeological Survey of India is an 'Industry'. From decision of the cases cited on behalf of both parties & from the fact & circumstances of the present case, I am of the view that establishment of non-applicant Archaeological Survey of India is an 'Industry' within the meaning of section 2(J) of Industrial Disputes Act, 1947. Issue no. 4 is accordingly decided in affirmative against the non-applicant.

Issue no. 1

26. This issue is to the effect that whether workman had worked for more than 240 days as daily wager during period 9.9.03 to 30.8.06 preceding twelve months from the date of his alleged termination & whether his service was terminated in violation of section 25-H of the Act? It has been argued by learned counsel for the applicant & has also been alleged in the written argument that the applicant has worked for more than 240 days as daily wager during period of 12 months immediately preceding the date of termination on 30.8.06 & termination of the services of applicant is in violation of section 25-F of Industrial Disputes Act, hence, the order of termination is fit to be set aside with continuity in service along with back wages. Against this, it has been argued by the learned counsel for the opposite party & has also been alleged in the written argument that applicant was not appointed by non-applicant, no appointment letter was issued, there was no advertisement for any appointment. It has also been argued that applicant was engaged on daily wage basis for repair of the walls of the fort which is a work of temporary nature. It has also been argued that applicant voluntarily left the place of work on account of non availability of work. It has also been said that on availability of work engagement is made on daily wage basis for the period of work only & provision of section 25-H is not attracted in the case of applicant. It has also been alleged that in view of case of the applicant covered under section 2(o) (bb) of the I.D. Act, compliance of provision of section 25-F is not required.

27. According to statement of claim applicant was appointed on daily wage on 9.9.03 & was terminated on 30.8.06 without notice or pay in lieu of notice or retrenchment compensation in violation of section 25-F of I.D. Act. What was the post held by the applicant during employment has not been alleged in statement of claim. About the nature of the work of the applicant has alleged that whatever work was assigned by the opposite party applicant was performing that work. It has also been alleged that his engagement was neither for a fix work nor for a fix period. The applicant has alleged that he has worked for more than 240 days in every year. In affidavit filed in evidence in support of above statement of claim the applicant has repeated the allegation of statement of claim. No other co-worker has been produced as witness in evidence to support the allegation of statement of claim. In written statement it has been specifically denied by opposite party that applicant has worked for more than 240 days in a year instead it has been alleged that applicant has not worked for 240 days in any of the year. Sh. Brijraj Singh has specifically denied in para 3 of his affidavit that the applicant has worked for 240 days in any of the year. In above fact & circumstances, the burden of proof lies on applicant to prove that he has worked for more than 240

days in a year immediately preceding the date of his termination on 30.8.06 as alleged in statement of claim. The applicant has alleged in his cross examination that he has not stated in his affidavit in evidence or in statement of claim that for how many days he has worked in any corresponding year. He has admitted that he has filed document w-1 & in w-1 nature of work has been mentioned for which he was engaged & in w-1 it has also been mentioned that the nature of work includes 'special repair work' & such mention in w-1 is correct. Thus, it shall appear that two documents relating to total number of days of work has been filed by the applicant which is w-1 & w-2. W-2 is the document which appeared to be prepared by workman whereas w-1 is the document which appears to be reply submitted by management during conciliation proceedings. From document w-2 if taken into consideration for calculating the period of 240 days immediately preceding the date of termination on 30.8.06 then total number of days on which the workman has worked between 30.8.05 to 30.8.06 comes out to be 169 days. From document w-1 it comes out to be 219 days but lacks continuity. Thus, workman has failed to prove that he has continuously worked for more than 240 days in the year immediately preceding the date of his termination. It shall also appear from both the documents w-1 & w-2 that there is no continuous work in the year.

28. Document regarding period & corresponding working days filed by management on order of the tribunal passed on applicant of the applicant provides following detail:—

Period of work	Number of working days
19.2.03 to 20.3.03	26
17.1.04 to 16.2.04	29
13.4.04 to 13.5.04	27
15.4.04 to 14.6.04	28
9.6.04 to 9.7.04	23
18.7.04 to 27.7.04	10
11.7.04 to 10.8.04	19
12.8.04 to 11.9.04	27
13.9.04 to 13.10.04	27
14.10.04 to 31.10.04	17
1.11.04 to 1.12.04	26
3.12.04 to 2.1.05	27
4.1.05 to 3.2.05	27
6.2.05 to 8.3.05	27
9.3.05 to 17.3.05	09
15.2.05 to 17.3.05	12
6.6.05 to 6.7.05	28
7.7.05 to 7.8.05	27
8.9.05 to 6.10.05	27
8.11.05 to 8.12.05	29

10.12.05 to 9.1.06	27
11.1.06 to 10.2.06	29
12.2.06 to 14.3.06	29
9.6.06 to 7.7.06	28
Total number of days between 30.8.05 to 30.8.06	169 days.

29. The statement of above table submitted by opposite party regarding statement of work done by workman indicates that from the date of termination on 30.8.06 applicant has worked only for 169 days in a year immediately preceding the date of termination on 30.8.06. Thus, it is evident that the workman has not worked continuously for 240 days immediately preceding the date of termination. From the above discussion it is clear that applicant has failed to prove that he has worked for more than 240 days immediately preceding the date of termination. From the entire cross examination Sh. Brijraj Singh there appears nothing to dervie in favour of applicant that he has worked for more than 240 days in a year preceding the date of termination. From the above discussion it is clear that applicant has failed to prove that he has continuously worked for more than 240 days in a year immediately preceding the date of his termination.

30. As far as the question of violation of section 25-F of Industrial Dispute is concerned it has been argued by the learned counsel for the applicant that there has been violation of section 25-F in terminating the services of the applicant, against this learned counsel for the opposite party has argued that there is no violation of section 25-F of I.D. Act & section 25-F does not apply in the case of applicant who was neither employed nor terminated & his engagement has been only for specific period & specific work & he has left the workplace on his own accord. It has also been argued that as the question of terminating the services of the applicant does not arise, because he was not given any employment & there was no advertisement for employment, hence, section 25-F does not apply to the case of the applicant. Section 25-F reads as under:—

"25-F. Conditions precedent to retrenchment of workmen.— No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until:—

- The workman has been given on month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu such notice, wages for the period of the notice:
- the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and

- (c) notice in the prescribed manner is served on the appropriate Government (or such authority as may be specified by the appropriate Government by notification in the Official Gazette.)

31. Continuous service as indicated in section 25-F(1) has been defined in section 25-B(1) (ii) which reads as under:—

Section 25-B. Definition of continuous service.— For the purposes of this Chapter—

- (1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman.
- (2) where a workman is not in continuous service within the meaning of Clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer:—
 - (a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than:—
 - (i) one hundred and ninety days in the case of a workman employed below ground in a mine; and
 - (ii) two hundred and forty days, in any other case;

32. Section 2 (oo) provides meaning of retrenchment which reads as under:—

"2(oo)-----"retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include-----

- (a) Voluntary retirement of the workman; or
- (b) Retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf: or
- (bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or
- (c) termination of the service of a workman on the ground of continued ill-health;

33. In 2006 Supreme Court Cases (L&S) 38, Surendranagar District PanchayatAppellant V/s. Dahyabhai Amarsinh Respondent, taking together & analyzing the integrated impact of section 2(oo), section 25-B & section 25-F in paragraph 7 page 43, it has been held by Hon'ble Supreme Court, "..... To attract provisions of Section 25-F, the workman claiming protection under it, has to prove that there exists relationship of employer and employee; that he is a workman within the meaning of section 2(s) of the Act; the establishment in which he is employed is an industry within the meaning of the Act and he must have put in not less than one year of continuous service as defined by section 25-B under the employer. These conditions are cumulative. If any of these conditions is missing the provisions of section 25-F will not be attracted. To get relief from the court the workman has to establish that he has right to continue in service and that his service has been terminated without complying with the provisions of section 25-F of the Act. The section postulates three conditions to be fulfilled by an employer for getting a valid retrenchment, namely:—

- (i) one month's clear notice in writing indicating the reasons for retrenchment or that the workman has been paid wages for the period of notice in lieu of such notice;
- (ii) payment of retrenchment compensation which shall be equivalent to 15 days average pay for every completed year of continuous service or any part thereof, in excess of six months;
- (iii) a notice to the appropriate Government in the prescribed manner.

34. Looking into the above provisions & law laid down by the Hon'ble Supreme Court to attract the provision of section 25-F, it is clear that the applicant has failed to prove that he has worked continuously for more than 240 days in a calendar year immediately preceding the date of his termination, thus, provision of section 25-F is not attracted in the case of applicant. From above discussion, I am of the view that the applicant has not worked continuously for more than 240 days as daily wage immediately preceding 12 months from the date of his alleged termination on 30.08.06 & his services were not terminated in violation of section 25-F of Industrial Disputes Act. Issue No. 1 is accordingly decided in negative against the applicant.

35. It has been argued by the learned counsel for the applicant that even if section 25-F is not attracted in case of applicant, he is entitled to the benefits of section 25-G & 25-H which are independent of section 25-F. Reliance has been placed on RLR 1991(2), Jaipur Bench, Oriental Bank of Commerce Appellant v/s. Presiding Officer, Central Govt. Industrial Tribunal & others & RLR 1991 (2), Jaipur Bench, Surya Prakash SharmaPetitioner v/s. Rajasthan Text Book Board, Jaipur & other (122).....Respondent.

Against this it has been argued by learned counsel for opposite party that provision of section 25-G & 25-H is not attracted in the case of applicant. I have carefully gone through both the above reported cases.

36. In case of *Oriental Bank of Commerce v/s. Presiding Officer respondent 2* was employed in the bank of petitioner from 23.5.85 to 28.5.85 for a period of 79 days. He was said to be appointed for leave period only & his engagement came to end after expiry of period of leave. The respondent raised industrial dispute relating to section 25-G & 25-H which was referred for adjudication. After the evidence of both the parties tribunal came to the conclusion that there was violation of section 25-G & section 25-H, hence, respondent was directed to be reinstated & it was also directed that he will entitled to pay from the date of joining because respondent was said to be on the job in some other place. On the basis of evidence tribunal came to conclusion that management has failed to indicate that who was on leave in whose place respondent was employed during leave vacancy, hence, this fact was not admitted by tribunal that engagement of respondent was for the period of leave vacancy. It was admitted by the witness of the management that when respondent was removed from service employee Sh. Virendra Singh junior to he respondent was working. It was also admitted by management witness that after removal of respondent Sh. Mulan Rasool & Sh. Narendra Bhatt were appointed on the post of peon but respondent was not given opportunity. Thus, there was violation of section 25-G & 25-H. Petition against the order of tribunal was dismissed by Division Bench of Hon'ble High Court & award of the tribunal was confirmed.

37. In RLR 1991 (2), Jaipur Bench, Surya Prakash SharmaPetitioner v/s. Rajasthan Text Book Board, Jaipur & others (122).....Respondent, it has been held by Hon'ble High Court that section 25-G & 25-H & 25-F are independent of each other & section 25-G & 25-H are not dependent on section 25-F. It has also been held that section 25-G & 25-H are applicable irrespective of the fact that the workman has completed 240 days of service or not. It has been further held that rule 76 to 78 of Industrial Dispute Rules, 1957 are independent of each other & mandatory in nature. Violation of these rules will give a cause of action in favour of workman to claim compensation, damages & re-employment. To derive the benefits of these rules continuous service is not necessary & workmen not having completed 240 days of service are also entitled to the benefits of Rule 76 to 78. In this case petitioner Sh. Suryaprakash Sharma was retrenched from service before completion of 240 days & was not entitled for the benefits u/s 25 I.D. Act. The only question involved in this case was about applicability of section 25-H of I.D. Act read with Rule 77 & 78. The case of the respondent was that after discharge of petitioner on 1.11.88 they had employed few persons although persons who employed were discharged on 19.8.89. The petition of

the petitioner was allowed & he was held entitled to claim wages by way of compensation for the period during which his junior remain in employment.

38. In 1976 LLJ, Supreme Court 478, *State Bank of India....Appellant v/s N. Sundaramoney...Respondent*, it has been held by Hon'ble Supreme Court that read with section 25-B(2) if provision of section 25-F of Industrial Dispute Act is attracted in case of the workman, he cannot be retrenched without payment of compensation at the time of retrenchment as prescribed therein. It is pertinent to mention that facts & circumstances of the present case are different comparing to the facts of *State Bank of India v/s N. Sundaramoney*, hence, law laid down by Hon'ble Supreme Court in *State Bank of India v/s N. Sundaramoney* is not attracted in the present case.

39. From decision of issue no. 2 & 3 it is clear that applicant is not entitled to the benefit of violation of section 25-G & 25-H of Industrial Dispute Act because violation of these two sections have not been proved by the applicant. It is also clear from the evidence on record that no seniority list is in existence as the case of opposite party is that there was no employment in respect of applicant & he was only engaged casually as & when there was existence of work. Applicant has not proved his appointment or termination by filing any documentary evidence in this behalf who was engaged as daily wage. It has been held by Hon'ble Supreme Court in 2006 Supreme Court Cases (L&S) 38, *Surendranagar District Panchayat...Appellant V/s Dahyabhai Amarsinh...Respondent*, in para 18 of the judgement in relation to section 25-G & section 25-H as under:—

".....In the absence of regular employment of the workmen, the appellant was not expected to maintain seniority list of the employees engaged on daily wages and in the absence of any proof by the respondent regarding existence of the seniority list and his so-called seniority, no relief could be given to him for non-compliance with provisions of the Act. The courts could have drawn adverse inference against the appellant only when seniority list was proved to be in existence and then not produced before the court. In order to entitle the court to draw inference unfavourable to the party, the court must be satisfied that evidence is in existence and could have been proved." Finding of Hon'ble Supreme Court in 2006 Supreme Court Cases (L&S) 38, *Surendranagar District Panchayatappellant V/s Dahyabhai Amarsinh....Respondent*, is relevant & applies to the case of applicant.

40. Bases on the findings related to issue no. 1 to 4 & from the discussions as above, I am of the view that applicant is not entitled to any relief as prayed in the statement of claim & action of the management of Archaeological Survey of India in terminating the services of the workman Sh. Radhye Shyam Mali *w.e.f.*

30.8.06 without following the provisions of section 25-F, 25-G & 25-H of Industrial Disputes Act, 1947 is legal & justified.

41. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 25 जून, 2015

का.आ. 1309.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आर्कियोलॉजिकल सर्वे ऑफ इंडिया राजस्थान के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ सं० 53/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 24/06/2015 को प्राप्त हुआ था।

[सं एल-42012/31/2007-आईआर (डीयू)]

पी०के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 25th June, 2015

S.O. 1309.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the award (I.D. No. 53/07) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Archaeological Survey of India, Rajasthan and their workmen, which was received by the Central Government on 24/06/2015.

[No. L-42012/31/2007-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, JAIPUR

BHARAT PANDEY,
PRESIDING OFFICER

I.D. 53/2007

Reference No. L42012/31/2007-IR(DU) dated: 23.7.2007

Sh. Ram Prasad Mali
S/o Shri Ghasi Lal Mali
R/o Village & Post Shergpur, Khilchipur,
Sawai Madhopur (Rajasthan)

V/s

The Regional Officer
Archaeological Survey of India
Ranthambhor Durg,
Sawai Madhopur (Rajasthan)

For the Applicant : Sh. M.F. Beig, Advocate.

For the Non-applicant : Sh. T.P. Sharma, Advocate.

AWARD

18.5.2015

1. The Central Government in exercise of the powers conferred under clause (d) of Sub Section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:-

"Whether the action of the management of Archaeological Survey of India, in terminating the services of their workman Shri Ram Prasad Mali, w.e.f 30.8.2006, without following the provisions of Sections 25F, 25G and 25H of the Industrial Dispute Act, 1947 is legal and justified? If not, to what relief the workman is entitled to?"

2. The fact of the case in brief is that the applicant workman was appointed as daily wager on 25.5.03. He was discharging his duty since appointment honestly & there was no complaint by opposite party against his work. Whatever work has assigned to the applicant he completed that work to best of his ability. Applicant was never served with any notice & no charge was ever proved against him.

3. He was appointed on daily wage but his period of appointment or nature of work was not fixed. The work for which he was appointed by opposite party is still existing & the nature of work is permanent. The applicant is 'workman' & the opposite party is 'employer' according to the definition of 'workman' & employer' provided in Industrial Disputes Act, 1947. The applicant had worked for more than 240 days in a calendar year immediately preceding the date of termination & his services were terminated on 30.8.06 without giving any notice or any payment in lieu of notice or retrenchment compensation in violation of section 25-F of Industrial Disputes Act, 1947. His termination is unfair labour practice & victimisation adopted by opposite party.

4. Before the termination of the workman seniority list was neither prepared nor published by the opposite party which is violation of Rule 77 of Industrial Disputes Rules, 1958. At the time of termination of the service workmen junior to the applicant were retained in service by the opposite party in violation of section 25-G of Industrial Disputes Act, 1947. The opposite party has made new appointment after termination of the services of the applicant workman but no priority was given to the applicant which is violation of section 25-H of Industrial Disputes Act, 1947 & Rule 78 of Industrial Disputes Rule, 1958. It has been further alleged by the applicant requested the opposite party to take the applicant in his employment but he was not taken back & due to non co-operation of opposite party conciliation also failed before the Conciliation Officer. The opposite party has accepted before the Conciliation Officer that applicant was kept on work & work was taken from him, hence, the relation of

employer & workman has not been denied by the opposite party but to escape from the liability of illegal termination it has been denied that opposite party is 'Industry' within the meaning of definition provided in Industrial Disputes Act, 1957. The true position is that according to the activities & work the opposite party is an 'industry' according to the definition of industry provided under Industrial Disputes Act, 1947. The provisions of Industrial Disputes Act, 1947 have not been followed by opposite party, hence, the termination of the services of the workman is illegal & unfair.

5. It has been further alleged that allegation of the opposite party before the Conciliation Officer is that the applicant workman was absent from duty from 15.3.2006 to 8.6.2006 but workman was not given any show-cause notice. Neither any charge sheet was served upon him regarding absence from place of duty nor any charge was proved. The applicant had made his stand clear before the management that he has not remained absent during above said period & instead of absence he has been working in that period. The applicant had completed more than two years of service & he was demanding from the opposite party to declare him semi permanent employee. As a result of above demand of the applicant the opposite party instead of making him semi permanent terminated the services of the applicant. The applicant is jobless since the date of termination. It is, therefore, requested that termination order dated 30.8.06 be declared illegal & applicant reinstated with all pay & emoluments along with continuity in service.

6. In reply statement in para 1,2,3,4,5,6,7,8,9,10,11, 12,13,14,15,16,17,18,19 & 20 of the statement of claim have been specifically denied. In additional reply it has been alleged in para 2 that the applicant labourer was not appointed by the opposite party & he was engaged as casual labourer for carrying out casual work on the basis of part time contract & such engagement was coming to end immediately after completion of the work. It has also been alleged that the applicant labourer has never completed 240 days in any year & applicant is under an obligation to prove this fact by document. Statement of para 5 of statement of claim has been said to be baseless & nature of the work for which applicant was engaged is alleged to be casual. Against para 7 it has been alleged that to succeed in his sinister design applicant has fabricated the statement.

7. It has been alleged against para 8 of the statement of claim that applicant was called for a fixed works & his services were coming to end after completion of the work. Relation between applicant & opposite party as workman & employer has been specifically denied against para 9 of the statement of claim & has been alleged that since he was never appointed the question of such relationship does not arise. The applicant does not fall within the definition of workman & the department of the opposite party does not fall within the definition of Industry.

Applicant was never engaged permanently & he was called only when there was work. He was neither appointed on any post after following the rules of appointment nor any appointment letter was issued to him, therefore, question of termination of his services does not arise. It has been alleged in para 11 of reply that it is pertinent to note that applicant was not removed from the institution of opposite party & the fact is that the work was over hence, his services automatically came to an end. It was not necessary to given notice to the applicant because such notice is issued only to such workman who permanently work for a period of more than 240 days & the department is not satisfied with work of such workman, in that event such workman may be removed after serving one months notice. In case of applicant after completion of work he himself had gone elsewhere.

8. Against para 13 of statement of claim it has been alleged that workmen like applicant are not given any appointment letter neither they are deemed regular workmen of the department. Workman like applicant are engaged on daily wage basis according to need of a particular work for its execution & they are removed after completion of work or at the end of financial year or on other technical ground on suspension or stoppage of work. Against para 14 of statement of claim it has been alleged that nature of the new recruitment by the department whose nature is permanent is doen by following the legal procedure & selection is made out of person who possess the prescribed eligibility. Applicant was not appointed on any vacant post under grade 'D'. At the time of engaging the applicant workman he was briefed orally that he is engaged against a specific work & nature of the work is purely temporary & casual in which applicant is not entitled to derive benefit of provisions of Industrial Disputes Act. The allegation of the applicant is wrong that he was removed out of animosity. In absence of casual work the services of the workman automatically comes to an end. In last paragraph of the reply it has been prayed that order of dismissal be passed against the statement of claim.

9. In rejoinder dated 3.6.2010 filed by applicant, statement of claim has been reiterated & statement of reply submitted by the opposite party has been alleged to be wrong.

10. In preliminary objection against statement of claim filed by opposite party it has been alleged that applicant was neither given any appointment nor there was any sanctioned or vacant post Department of the opposite party is not covered within the definition of industry as provided in section 2(j) of Industrial Disputes Act. In B-40/97, Gobardhan Lal Meena v/s Archaeological Survey of India, it has been held by the Hon'ble Tribunal in its award dated 18.1.2001 that Archaeological Survey of India is not covered within the definition of industry. Industrial Tribunal, Jabalpur in its award dated 9.6.2003 has held that Archaeological Survey of India is not an 'Industry' within

the meaning of section 2(j) of Industrial Disputes Act. It has also been alleged that the applicant was engaged for completion of casual work for fixed period of time & he has not worked for 240 days in any of the year, hence, he is not entitled to the benefit of Industrial Dispute Act. It has also been alleged that the applicant left the work on his own even before the completion of the work, hence, he is not entitled to any relief.

11. Against preliminary objection it has been alleged by the applicant that preliminary objections are not tenable at belated stage. It has also been alleged that various precedents it has been alleged that preliminary objections are to be decided along with other issues on merits. It has also been alleged that preliminary objections are evidence based, hence, opposite party be directed to file the reply to the statement of claim.

12. Under mentioned issues were framed on 27.7.2011 by the then learned Presiding Officer of the Tribunal, based on pleadings of both the parties:—

- (1) Whether the workman had worked for more than 240 days as daily wager during period 25.5.2003 to 30.8.06 preceding twelve months from the date of his alleged termination & whose service was terminated in violation of section 25-F of the Act?
- (2) At the time of terminating the service of the workman the juniors person to him were retained by the management in contravention of section 25-G of the I.D. Act?
- (3) Whether subsequent to the termination of the workman fresh hands were engaged by the non-applicant management in violation of section 25-H of the I.D. Act?
- (4) Whether non-applicant establishment is an 'Industry' within the meaning of section 2-J of the I.D. Act?

13. Applicant has filed document W-1 which is reply of opposite party before conciliation proceeding, affidavit of the applicant in evidence and statement of number of working days in calendar year 2003, 2004, 2005 & 2006. Applicant has been cross-examination by opposite party on his affidavit.

14. In documentary evidence, opposite party has filed statement of payment made to applicant & other workmen which is 26 page. This document has been filed on direction of tribunal given on application of the applicant. Opposite party has filed affidavit of Sh. Brijraj Singh in evidence. Sh. Brijraj Singh has been cross examined on 28.10.14 by applicant side.

15. I have heard the argument of learned counsel for both the parties & perused the file. Written argument have been filed by both the parties which is on record.

16. Following citations have been referred on behalf of applicant:—

- i. 1976 LLJ, Supreme Court 478, State Bank of India.....Appellant V/s N. Sundaramoney.....Respondent.
- ii. Judgement & order dated 21.2.1978 in civil appeal No. 753-754(I) of 1975, Bangalore Water supply & Sewerage Board etc. etc. V/s A. Rajappa & Others etc. etc.
- iii. 1983 LAB.I.C. 1629 (Supreme Court), D.P. Maheshwari...Appellant v/s Delhi Administration & other...Respondents.
- iv. Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No. 78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi V/s The Director General, Archaeological Survey of India, Janpath, New Delhi.
- v. RLR 1991(2), Jaipur Bench, Oriental Bank of Commerce...Appellant V/s President Officer, Central Govt. Industrial Tribunal & others (23).
- vi. RLR 1991 (2), Jaipur Bench, Surya Prakash Sharma....Petitioner V/s Rajasthan Text Book Board, Jaipur & others (122)....Respondent.
- vii. Award dated 17.11.2008 passed by Industrial Tribunal-cum-Labour Court, Kanpur, in Industrial Dispute No. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra V/s Suresh Chandra.

17. Following citations have been referred on behalf of opposite party:—

- i. Award dated 26.11.1986 passed by Central Administrative Tribunal, Ahmedabad in O.A.No. 33/86, Govind Kanji Parmar & others....Petitioner V/s Union of India & others....Respondents.
- ii. Award dated 30.10.1996 passed by Central administrative Tribunal, Jodhpur Bench, Jodhpur in O.A.No. 331 to 334/1993, Devi singh & others....petitioners V/s Union of India & others....Respondents.
- iii. Award dated 18.1.2001 passed by Central Government Industrial Tribunal-cum-Labour Court, Jaipur of CGIT case No. B-40/97 in Goverdhan Lal Meena V/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun.

18. It has been argued by the learned counsel for the applicant that applicant has completed continuous 240 days

of service in every year but he has removed from service by opposite party in violation of section 25-F, 25-G & 25-H of the Industrial Disputes Act, 1947. It has also been argued that contention of the opposite party is against the law that Archaeological Survey of India is not an 'Industry' within the meaning of section 2(j) of the Act. Against this it has been argued by learned counsel for the opposite party that Archaeological Survey of India is not an 'Industry' & there is no violation of section 25-F G & H of the Act. It has also been argued that applicant was neither appointed nor any appointment letter was issued. There was no advertisement for recruitment. It has also been argued that applicant was engaged on part time contract for casual work of repair & soon after completion of the work engagement of the applicant was over. It has also been alleged that his engagement was on daily wage & as the work of repair of the wall was of temporary character hence, on account of end of job & none availability of further job the applicant himself had left the place of job. It has also been argued that whenever there is availability of work, workmen are engaged on daily wage basis for the job. Reference has been made by both the parties towards precedents submitted by them in favour of their respective claim.

19. Before issue No. 1 is decided it appears desirable to take up issues 2, 3 & 4 for decision because decision of these issues are important & having relevance in decision of issue No. 1.

Issue No. 2

20. This issue relates to violation of section 25-G of Industrial Dispute Act, 1947 in terminating the services of applicant. Section 25-G of Industrial Disputes Act, 1947 reads as under:—

"Section 25-G. Procedure for retrenchment.—Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman."

21. From perusal of the provision contained in section 25-G it appears that whenever in ordinary course of business a workman is required to be retrenched then the last person employed by the employer shall be retrenched first unless there is special reason for retrenchment of a person other than the last employed person. From perusal of statement of claim it is evident that in para 13 it has been alleged that there has been violation of section 25-G of Industrial Disputes Act, 1947 in terminating the services of the applicant & junior to the applicant was retained in

service at the time of his removal but no one has been named in statement of claim that who is the person junior to the applicant who was retained. In the affidavit also filed by applicant as evidence there is no mention of a person junior to him who was retained in the service at the time of his removal. In the cross-examination of the applicant on page 2 this question has been placed before him & he has alleged that when he was removed at that time all other workmen were also removed. This statement of the applicant during cross-examination obviously indicates that no one junior to him was retained & removal of all the workman together is also indicative of the fact of Cessation or completion of a particular work for which they are engaged. Here, it is also pertinent to note that it has been repeatedly argued by learned counsel for opposite party that in fact there has been no appointment, therefore, the question of removal of the applicant from employment does not arise. From the perusal of the cross-examination of Sh. Brijraj Singh, Deputy Superintendent (Archaeology) it is clear that no assistance can be taken on this point from his cross-examination. Bases on above discussion, it is clear that the applicant has failed to prove that at the time of termination of the service of applicant workman, juniors to him were retained by the management in contravention of section 25-G of the I.D. Act. Issue No. 2 is accordingly decided in negative against the applicant.

Issue No. 3

22. This issue is to the effect that whether subsequent to the termination of the workman fresh workmen were engaged by the non-applicant management in violation of section 25-H of the I.D. Act. For convenience provision of Section 25-H is reproduced below which reads as under:—

"Sec. 25-H. Re-employment of retrenched workmen—

Where any workmen are retrenched, and the employer purposes to take into his employ any person he shall, in such manner as may be prescribed, give an opportunity to the retrenched workmen who are citizens of the India to offer themselves for re-employment, and such retrenched workmen, who offer themselves for re-employment shall have preference over other persons.

23. The above mentioned section 25-H provides that a retrench employee shall have preference is appointment over rest, if management, intends to employ a workman & the management is under an obligation to give opportunity to retrench workman so that he can offer himself for employment. If opportunity is not given by management it will amount to violation of section 25-H of I.D. Act. Para 14 of statement of claim indicates that after termination of the services of applicant new appointments were made without preference given to applicant. In reply to para 14 of statement of claim non-applicant has denied the appointment. There is no documentary evidence on record about new appointment. Para 6 of affidavit of applicant filed in evidence indicates that new appointments were

made with no preference to applicant but in cross examination applicant has admitted that in his affidavit & statement of claim he has not alleged that after his removal who was appointed & when. The applicant has also admitted that in statement of claim also he has not given detail of newly appointed persons. In para 11 of affidavit of Sh. Brijraj Singh witness for opposite party violation of section 25-G & H has been specifically denied. In cross-examination of Sh. Brijraj Singh there is nothing significant to draw an inference about violation of section 25-H of I.D. Act. Based on above discussion & appreciation of evidence adduced by the parties I am of the view that the applicant has failed to prove the violation of section 25-H of the I.D. Act regarding appointment of fresh hands subsequent to termination of his service. Issue No 3 is accordingly decided against the applicant.

Issue No. 4

24. This issue is to the effect that whether establishment of the non-applicant, Archaeological Survey of India is an Industry within the meaning of Section 2(j) of the I.D. Act. A preliminary objection has been raised by non-applicant that establishment of the non-applicant is not covered under definition of 'Industry' as indicated in section 2(j) of the I.D. Act. Reliance has been placed by non-applicant on Award dated 18.1.2001 passed by Central Government Industrial Tribunal-cum-Labour Court, Jaipur in CGIT case No. B-40/97 in Goverdhan Lal Meena v/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun. Against this, it has been argued by learned counsel for the applicant that establishment of non-applicant is covered by the definition of 'Industry'. Reliance has been placed by non-applicant on Judgement & order dated 21.2.1978 in civil appeal No. 753-754(T) of 1975, Bangalore Water Supply & Sewerage Board etc. etc v/s A. Rajappa & others etc. etc., Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No. 78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi v/s The Director General, Archaeological Survey of India, Janpath, New Delhi & Award dated 17.11.2008 passed by Industrial Tribunal-cum-Labour Court, Kanpur, in Industrial Dispute No. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s Suresh Chandra. I have very carefully gone through cases cited by both the parties. Judgement dated 9.6.03 by CGIT, Jabalpur has not been filed by opposite party.

25. In Award dated 18.1.2001 passed by Central Government Industrial Tribunal-cum-Labour Court, Jaipur in CGIT case No. B-40/97 in Goverdhan Lal Meena v/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun, cited by learned counsel for the opposite party it has been held in decision of issue No. 4 that provision of I.D. Act, 1947 apply to the case. Issue No. 4 has dealt with the fact that provisions of I.D. Act apply to

the opposite party or not. Cases cited by learned counsel for the applicant indicate that Archaeological Survey of India is covered within the definition of 'Industry' as provided in section 2(i) of the I.D. Act. In Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No. 78/84 in Workmen through the President, Archeological Survey Mazdoor Union, New Delhi v/s The Director General, Archaeological Survey of India, Janpath, New Delhi, discussing the case of Judgement & order dated 21.2.1978 in civil appeal No. 753-754(T) of 1975, Bangalore Water Supply & Sewerage Board etc etc v/s A. Rajappa & others etc. etc., it has been held by the CGIT, Delhi that Archaeological Survey of India is an 'Industry'. In Award dated 17.11.2008 passed by Industrial Tribunal-cum-Labour Court, Kanpur, in Industrial Dispute No. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s Suresh Chandra, it has been held by CGIT, Kanpur that Archaeological Survey of India is an 'Industry'. From decision of the cases cited on behalf of both the parties & from the fact & circumstances of the present case, I am of the view that establishment of non-applicant Archaeological Survey of India is an 'Industry' within the meaning of section 2(J) of Industrial Disputes Act, 1947. Issue No. 4 is accordingly decided in affirmative against the non-applicant.

Issue No. 1

26. This issue is to the effect whether the workman had worked for more than 240 days as daily wager during period 25.5.03 to 30.8.06 preceding twelve months from the date of his alleged termination & whether his service was terminated in violation of section 25-F of the Act? It has been argued by learned counsel for the applicant & has also been alleged in the written argument that applicant has worked for more than 240 days as daily wager during period of 12 months immediately preceding the date of termination on 30.8.06 & termination of the services of applicant is in violation of section 25-F of Industrial Disputes Act, hence, the order of termination is fit to be set aside with continuity in service along with back wages. Against this, it has been argued by the learned counsel for the opposite party & has also been alleged in the written argument that the applicant was not appointed by non-applicant, no appointment letter was issued, there was no advertisement for any appointment. It has also been argued that applicant was engaged on daily wage basis for repair of the walls of the fort which is a work of temporary nature. It has also been argued that applicant voluntarily left the place of work on account of non availability of work. It has also been said that on availability of work engagement is made on daily wage basis for the period of work only & provision of section 25-F is not attracted in the case of applicant. It has also been alleged that in view of case of the applicant covered under section 2(o) (bb) of the I.D.

Act, compliance of provision of section 25-F is not required.

27. According to statement of claim applicant was appointed on daily wage on 25.5.03 & was terminated on 30.8.06 without notice or pay in lieu of notice or retrenchment compensation in violation of section 25-F of I.D. Act. What was the post held by the applicant during employment has not been alleged in statement of claim. About the nature of the work the applicant has alleged that whatever work was assigned by the opposite party applicant was performing that work. It has also been alleged that his engagement was neither for a fix work nor for a fix period. The applicant has alleged that he was worked for more than 240 days in every year. In affidavit filed in evidence in support of above statement of claim the applicant has repeated the allegation of statement of claim. No other co-worker has been produced as witness in evidence to support the allegation of statement of claim. In written statement it has been specifically denied by opposite party that applicant has worked for more than 240 days in a year instead it has been alleged that applicant has not worked for 240 days in any of the year. Sh Brijraj Singh has specifically denied in para 3 of his affidavit that the applicant has worked for 240 days in any of the year. In above fact & circumstances, the burden of proof lies on applicant to prove that he has worked for more than 240 days in a year immediately preceding the date of his termination on 30.8.06 as alleged in statement of claim. The applicant has alleged in his cross examination that he has not stated in his affidavit in evidence or in statement of claim that for how many days he has worked in any corresponding year. He has admitted that he has filed document w-1 & in w-1 nature of work has been mentioned for which he was engaged & in w-1 it has also been mentioned that the nature of work includes 'special repair work' & such mention in w-1 is correct. Thus, it shall appear that two documents relating to total number of days of work has been filed by the applicant which is w-1 & w-2, W-2 is the document which appeared to be prepared by workman whereas w-1 is the document which appears to be reply submitted by management during conciliation proceedings. From document w-2 if taken into consideration for calculating the period of 240 days immediately preceding the date of termination on 30.8.06 then total number of days on which the workman has worked between 30.8.05 to 30.8.06 comes out to be 139 days. From document w-1 it comes out to be 231 days but lacks continuity. Thus, workman has failed to prove that he has continuously worked for more than 240 days in the year immediately preceding the date of his termination. It shall also appear from both the documents w-1 & w-2 that there is no continuous work in the year.

28. Document regarding period & corresponding working days filed by management on order of the tribunal

passed on application of the applicant provides following detail:—

Period of work	Number of working days
19.2.03 to 20.3.03	26
25.5.03 to 24.6.03	30
25.7.03 to 24.8.03	09
25.8.03 to 1.9.03	08
17.1.04 to 16.2.04	28
13.4.04 to 13.5.04	26
15.5.04 to 14.6.04	22
9.6.04 to 9.7.04	28
18.7.04 to 27.7.04	10
11.7.04 to 10.8.04	19
12.8.04 to 11.9.04	27
13.9.04 to 13.1.04	28
14.10.04 to 31.10.04	17
1.11.04 to 1.12.04	26
3.12.04 to 2.1.05	28
4.1.05 to 3.2.05	28
19.1.05 to 18.2.05	13
6.2.05 to 8.3.05	15
9.3.05 to 17.3.05	09
19.3.05 to 13.4.05	24
6.6.05 to 6.7.05	28
8.10.05 to 7.11.05	28
9.11.05 to 9.12.05	27
11.12.05 to 10.1.06	29
12.2.06 to 14.3.06	27
9.6.06 to 7.7.06	28
Total number of days between	
30.8.05 to 30.8.06	139 days

29. The statement of above table submitted by opposite party regarding statement of work done by workman indicate that from the date of termination on 30.8.06 applicant has worked only for 139 days in a year immediately preceding the date of termination on 30.8.06. Thus, it is evident that the workman has not worked continuously for 240 days immediately preceding the date of termination. From the above discussion it is clear that applicant has failed to prove that he has worked for more than 240 days immediately preceding the date of termination. From the entire cross examination of Sh. Brijraj Singh there appears nothing to derive in favour of applicant that he has worked for more than 240 days in a year preceding the

date of termination. From the above discussion it is clear that applicant has failed to prove that he has continuously worked for more than 240 days in a year immediately preceding the date of his termination.

30. As far as the question of violation of section 25-F of Industrial Dispute is concerned it has been argued by the learned counsel for the applicant that there has been violation of section 25-F in terminating the services of the applicant, against this learned counsel for the opposite party has argued that there is no violation of section 25-F of I.D. Act & section 25-F does not apply in the case of applicant who was neither employed nor terminated & his engagement has been only for specific period & specific work & he has left the workplace on his own accord. It has also been argued that as the question of terminating the services of the applicant does not arise, because he was not given any employment & there was no advertisement for employment, hence, section 25-F does not apply to the case of the applicant. Section 25-F reads as under:—

"25-F. Conditions precedent to retrenchment of workmen.—No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-----

- (a) the workman has been given on month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;
- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and
- (c) notice in the prescribed manner is served on the appropriate Government (or such authority as may be specified by the appropriate Government by notification in the Official Gazette.)

31. Continuous service as indicated in section 25-F(1) has been defined in section 25-B(1) (ii) which reads as under:—

Section 25-B. Definition of continuous service---
---For the purposes of this Chapter—

- (1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman.

- (2) where a workman is not in continuous service within the meaning of Clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer.....

- (a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than.....

- (i) one hundred and ninety days in the case of a workman employed below ground in a mine; and

- (ii) two hundred and forty days, in any other case;

32. Section 2 (oo) provides meaning of retrenchment which reads as under: —

"2(oo)....."retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include.....

- (a) Voluntary retirement of the workman; or
- (b) Retirement of workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or
- (bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or
- (c) termination of the service of a workman on the ground of continued ill-health;

33. In 2006 Supreme Court Cases (L&S) 38, Surendranagar District Panchayat.....Appellant V/s. Dahyabhai Amarsinh.....Respondent, taking together & analyzing the integrated impact of section 2(oo), section 25-B & section 25-F in paragraph 7 page 43, it has been held by Hon'ble Supreme Court, "..... To attract provisions of Section 25-F, the workman claiming protection under it, has to prove that there exists relationship of employer and employee; that he is a workman within the meaning of section 2(s) of the Act; the establishment in which he is employed is an industry within the meaning of the Act and he must have put in not less than one year of continuous service as defined by section 25-B under the employer. These conditions are cumulative. If any of these conditions is missing the provisions of section 25-F will not be attracted. To get relief from the court the workman has to establish that he has right to continue in service and that his service has been terminated without complying

with the provisions of section 25-F of the Act. The section postulates three conditions to be fulfilled by an employer for getting a valid retrenchment, namely:—

- (i) one month's clear notice in writing indicating the reasons for retrenchment or that the workman has been paid wages for the period of notice in lieu of such notice;
- (ii) payment of retrenchment compensation which shall be equivalent to 15 days' average pay for every completed year of continuous service or any part thereof, in excess of six months;
- (iii) a notice to the appropriate Government in the prescribed manner.

34. Looking into the above provisions & the law laid down by the Hon'ble Supreme Court to attract the provision of section 25-F, it is clear that the applicant has failed to prove that he has worked continuously for more than 240 days in a calendar year immediately preceding the date of his termination, thus, provision of section 25-F is not attracted in the case of applicant. From above discussion, I am of the view that the applicant has not worked continuously for more than 240 days as daily wage immediately preceding 12 months from the date of his alleged termination on 30.8.06 & his services were not terminated in violation of section 25-F of Industrial Disputes Act. Issue No. 1 is accordingly decided in negative against the applicant.

35. It has been argued by the Learned Counsel for the applicant that even if section 25-F is not attracted in case of applicant, he is entitled to the benefits of section 25-G & 25-H which are independent of section 25-F. Reliance has been placed on RLR 1991(2), Jaipur Bench, Oriental Bank of Commerce.....Appellant v/s Presiding Officer, Central Govt. Industrial Tribunal & others & RLR 1991 (2), Jaipur Bench, Surya Prakash Sharma.....Petitioner V/s. Rajasthan Text Book Board, Jaipur & others (122).....Respondent. Against this it has been argued by learned counsel for opposite party that provision of section 25-G & 25-H is not attracted in the case of applicant. I have carefully gone through both the above reported cases.

36. In case of Oriental Bank of Commerce V/s. Presiding Officer respondent 2 was employed in the bank of petitioner from 2.5.85 to 28.5.85 for a period of 79 days. He was said to be appointed for leave period only & his engagement came to end after expiry of period of leave. The respondent raised industrial dispute relating to section 25-G & 25-H which was referred for adjudication. After the evidence of both the parties tribunal came to the conclusion that there was violation of section 25-G & section 25-H, hence, respondent was directed to be reinstated & it was also directed that he will be entitled to pay from the date of joining because respondent was said to be on the job in some other place. On the basis of evidence tribunal came to conclusion that

management had failed to indicate that who on leave in whose place respondent was employed during leave vacancy, hence, this fact was not admitted by tribunal that engagement of respondent was for the period of leave vacancy. It was also admitted by management witness that after removal of respondent Sh. Mulan Rasool & Sh. Narendra Bhatt were appointed on the post of peon but respondent was not given opportunity. Thus, there was violation of section 25-G & 25-H. Petition against the order of tribunal was dismissed by Division Bench of Hon'ble High Court & award of the tribunal was confirmed.

37. In RLR 1991 (2), Jaipur Bench, Surya Prakash Sharma.....Petitioner V/s. Rajasthan Text Book Board, Jaipur & others (122).....Respondent, it has been held by Hon'ble High Court that section 25-G, 25-H & 25-F are independent of each other & section 25-G & 25-H are not dependent on section 25-F. It has also been held that section 25-G & 25-H are applicable irrespective of the fact that the workman has completed 240 days of service or not. It has been further held that rule 76 to 78 of Industrial Dispute Rules, 1957 are independent of each other & mandatory in nature. Violation of these rules will give a cause of action in favour of workman to claim compensation, damages & re-employment. To derive the benefits of these rules continuous service is not necessary & workmen not having completed 240 days of service are also entitled to the benefits of Rule 76 to 78. In this case petitioner Sh. Suryaprakash Sharma was retrenched from service before completion of 240 days & was not entitled for the benefits u/s 25 of I.D. Act. The only question involved in this case was about applicability of section 25-H of I.D. Act read with Rule 77 & 78. The case of the respondent was that after discharge of petitioner on 1.11.88 they had employed few persons although persons who employed were discharged on 19.8.89. The petition of the petitioner was allowed & he was held entitled to claim wages by way of compensation for the period during which his junior remain in employment.

38. In 1976 LLJ, Supreme Court 478, State Bank of India.....Appellant V/s. N. Sundaramoney.....Respondent, it has been held by Hon'ble Supreme Court that read with section 25-B(2) if provision of section 25-F of Industrial Dispute Act is attracted in case of the workman, he cannot be retrenched without payment of compensation at the time of retrenchment as prescribed therein. It is pertinent to mention that facts & circumstances of the present case are different comparing to the facts of State Bank of India v/s N. Sundaramoney, hence, law laid down by Hon'ble Supreme Court in State Bank of India v/s N. Sundaramoney is not attracted in the present case.

39. From decision of issue No. 2 & 3 it is clear that applicant is not entitled to the benefit for violation of section 25-G & 25-H of Industrial Dispute Act because violation of these two sections have not been proved by the applicant. It is also clear from the evidence on record that no seniority

list is in existence as the case of opposite party is that there was no employment in respect of applicant & he was only engaged casually as and when there was existence of work. Applicant has not proved his appointment or termination by filing any documentary evidence in this behalf who was engaged as daily wager. It has been held by Hon'ble Supreme Court in 2006 Supreme Court Cases (L&S) 38, Surendranagar District Panchayat.....Appellant V/s Dahyabhai Amarsinh.....Respondent, in para 18 of the judgement in relation to section 25-G & section 25-H as under:—

".....In the absence of regular employment of the workmen, the appellant was not expected to maintain seniority list of the employees engaged on daily wages and in the absence of any proof by the respondent regarding existence of the seniority list and his so-called seniority, no relief could be given to him for non-compliance with provisions of the Act. The courts could have drawn adverse inference against the appellant only when seniority list was proved to be in existence and then not produced before the court. In order to entitle the court to draw inference unfavourable to the party, the court must be satisfied that evidence is in existence and could have been proved." Finding of Hon'ble Supreme Court in 2006 Supreme Court Cases (L&S) 38, Surendranagar District PanchayatAppellant V/s. Dahyabhai Amarsinh..... Respondent, is relevant & applies to the case of applicant.

40. Bases on the findings related to issue No. 1 to 4 & from the discussions as above, I am of the view that applicant is not entitled to any relief as prayed in the statement of claim & action of the management of Archaeological Survey of India in terminating the services of the workman Sh. Ram Prasad Mali *w.e.f.* 30.8.06 without following the provisions of section 25-F, 25-G & 25-H of Industrial Disputes Act, 1947 is legal & justified.

41. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 25 जून, 2015

का.आ. 1310.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आर्कियोलॉजिकल सर्वे ऑफ इंडिया, राजस्थान के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ सं० 54/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 24.06.2015 को प्राप्त हुआ था।

[सं० एल-42012/33/2007-आईआर(डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 25th June, 2015

S.O. 1310.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 54/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Archaeological Survey of India, Rajasthan and their workmen, which was received by the Central Government on 24.06.2015.

[No. L-42012/33/2007-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, JAIPUR

Bharat Pandey, Presiding Officer

I.D. 54/2007

Reference No. L-42012/33/2007-IR(DU) dated 23.07.2007

Shri Prabhu Lal Mali
S/o Shri Morpal Mali
R/o Village and Post Sherpur,
Sawai Madhopur (Rajasthan)

V/s

The Regional Officer
Archaeological Survey of India,
Ranthambhor Durg,
Sawai Madhopur (Rajasthan).

For the Applicant : Shri M.F. Beig, Advocate.
For the Non-applicant : Shri T.P. Sharma, Advocate.

AWARD

18.05.2015

1. The Central Government in exercise of the powers conferred under clause (d) of Sub Section 1 and 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:—

"Whether the action of the management of Archaeological Survey of India, in terminating the services of their workman Shri Prabhu Lal Mali, *w.e.f.* 30.08.2006, without following the provisions of Sections 25F, 25G and 25H of the Industrial Dispute Act, 1947 is legal and justified? If not, to what relief the workman is entitled?"

2. The fact of the case in brief is that the applicant workman was appointed as daily wager on 25.03.03. He was discharging his duty since appointment honestly and there was no complaint by opposite party against his work. Whatever work was assigned to the applicant he completed

that work to best of his ability. Applicant was never served with any notice and no charge was ever proved against him.

3. He was appointed on daily wage but his period of appointment or nature of work was not fixed. The work for which he was appointed by opposite party is still existing and the nature of work is permanent. The applicant is 'workman' and the opposite party is 'employer' according to the definition of 'workman' and 'employer' provided in Industrial Disputes Act, 1947. The applicant had worked for more than 240 days in a calendar year immediately preceding the date of termination and his services were terminated on 30.08.06 without giving any notice or any payment in lieu of notice or retrenchment compensation in violation of section 25-F of Industrial Disputes Act, 1947. His termination is unfair labour practice and victimisation adopted by opposite party.

4. Before the termination of the workman seniority list was neither prepared nor published by the opposite party which is violation of Rule 77 of Industrial Disputes Rules, 1958. At the time of termination of the service workmen junior to the applicant were retained in service by the opposite party in violation of section 25-G of Industrial Disputes Act, 1947. The opposite party has made new appointment after termination of the services of the applicant workman but no priority was given to the applicant which is violation of section 25-H of Industrial Disputes Act, 1947 & Rule 78 of Industrial Disputes Rule, 1958. It has been further alleged by the applicant that applicant requested the opposite party to take the applicant in his employment but he was not taken back & due to non co-operation of opposite party conciliation also failed before the Conciliation Officer. The opposite party has accepted before the Conciliation Officer that applicant was kept on work & work was taken from him, hence, the relation of employer & workman has not been denied by the opposite party but to escape from the liability of illegal termination it has been denied that opposite party in 'Industry' within the meaning of definition provided in Industrial Disputes Act, 1947. The true position is that according to the activities & work the opposite party is an 'industry' according to the definition of industry provided under Industrial Disputes Act, 1947. The provisions of Industrial Disputes Act, 1947 have not been followed by opposite party, hence the termination of the services of the workman is illegal & unfair.

5. It has been further alleged that allegation of the opposite party before the Conciliation Officer is that the applicant workman was absent from duty from 15.3.2006 to 8.6.2006 but workman was not given any show cause notice. Neither any charge sheet was served upon him regarding absence from place of duty nor any charge was proved. The applicant had made his stand clear before the management that he has not remained absent during above said period & instead of absence he has been working in

that period. The applicant had completed more than two years of service & he was demanding from the opposite party to declare him semi permanent employee. As a result of above demand of the applicant the opposite party instead of making him semi permanent terminated the services of the applicant. The applicant is jobless since the date of termination. It is, therefore, requested that termination order dated 30.8.06 be declared illegal & applicant reinstated with all pay & emoluments along with continuity in service.

6. In reply statement in para 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 & 20 of the statement of claim have been specifically denied. In additional reply it has been alleged in para 2 that the applicant labourer was not appointed by the opposite party & he was engaged as casual labourer for carrying out casual work on the basis of part time contract & such engagement was coming to end immediately after completion of the work. It has also been alleged that the applicant labourer has never completed 240 days in any year & applicant is under an obligation to prove this fact by document. Statement of para 5 of statement of claim has been said to be baseless & nature of the work for which applicant was engaged is alleged to be casual. Against para 7 it has been alleged that to succeed in his sinister design applicant has fabricated the statement.

7. It has been alleged against para 8 of the statement of claim that applicant was called for a fixed works & his services were coming to end after completion of the work. Relation between applicant & opposite party as workman & employer has been specifically denied against para 9 of the statement of claim & has been alleged that since he was never appointed the question of such relationship does not arise. The applicant does not fall within the definition of workman & the department of the opposite party does not fall within the definition of Industry. Applicant was never engaged permanently & he was called only when there was work. He was neither appointed on any post after following the rules of appointment nor any appointment letter was issued to him, therefore, question of termination of his services does not arise. It has been alleged in para 11 of reply that it is pertinent to note that applicant was not removed from the institution of opposite party & the fact is that the work was over hence, his services automatically came to an end. It was not necessary to give notice to the applicant because such notice is issued only to such workman who permanently work for a period of more than 240 days & the department is not satisfied with work of such workman, in that even such workman may be removed after serving one months notice. In case of applicant after completion of work he himself had gone elsewhere.

8. Against para 13 of statement of claim it has been alleged that workmen like applicant are not given any appointment letter neither they are deemed regular workmen of the department. Workman like applicant are engaged on daily wage basis according to need of a particular work for

its execution and they are removed after completion of work or at the end of financial year or on other technical ground on suspension or stoppage of work. Against para 14 of statement of claim it has been alleged that nature of the new recruitment by the department whose nature is permanent is done by following the legal procedure & selection is made out of person who possess the prescribed eligibility. Applicant was not appointed on any vacant post under grade 'D'. At the time of engaging the applicant workman he was briefed orally that he is engaged against a specific work & nature of the work is purely temporary & casual in which applicant is not entitled to derive benefit of provisions of Industrial Disputes Act. The allegation of the applicant is wrong that he was removed out of animosity. In absence of casual work the services of the workman automatically comes to an end. In last paragraph of the reply it has been prayed that order of dismissal be passed against the statement of claim.

9. In rejoinder dated 3.6.2010 filed by applicant, statement of claim has been reiterated & statement of reply submitted by the opposite party has been alleged to be wrong.

10. In preliminary objection against statement of claim filed by opposite party it has been alleged that applicant was neither given any appointment nor there was any sanctioned or vacant post. Department of the opposite party is not covered within the definition of industry as provided in section 2(j) of Industrial Disputes Act. In B-40/97, Gobardhan Lal Meena v/s Archaeological Survey of India, it has been held by the Hon'ble Tribunal in its award dated 18.1.2001 that Archaeological Survey of India is not covered within the definition of industry. Industrial Tribunal, Jabalpur in its award dated 9.6.2003 has held that Archaeological Survey of India is not an 'Industry' within the meaning of section 2(j) of Industrial Disputes Act. It has also been alleged that the applicant was engaged for completion of casual work for fixed period of time & he has not worked for 240 days in any of the year, hence, he is not entitled to the benefit of Industrial Dispute Act. It has also been alleged that the applicant left the work on his own even before the completion of the work, hence, he is not entitled to any relief.

11. Against preliminary objection it has been alleged by the applicant that preliminary objections are not tenable at belated stage. It has also been alleged that various precedents it has been alleged that preliminary objections are to be decided along with other issues on merits. It has also been alleged that preliminary objections are evidence based, hence, opposite party be directed to file the reply to the statement of claim.

12. Under mentioned issues were framed on 27.7.2011 by the then learned Presiding Officer of the Tribunal, based on pleadings of both the parties:—

(1). Whether the workman had worked for more than 240 days as daily wage during period 25.3.03 to 30.8.06

preceding twelve months from the date of his alleged termination & whose service was terminated in violation of section 25-F of the Act?

(2). At the time of terminating the service of the workman the juniors person to him were retained by the management in contravention of section 25-G of the I.D. Act/

(3). Whether subsequent to the termination of the workman fresh hands were engaged by the non-applicant management in violation of section 25-H of the I.D. Act?

(4). Whether non-applicant establishment is an 'industry' within the meaning of section 2-J of the I.D. Act?

13. Applicant has filed document w-1 which is reply of opposite party before conciliation proceeding, affidavit of the applicant in evidence and statement of number of working days in calendar year 2003, 2004, 2005 & 2006. Applicant has been cross-examination by opposite party on his affidavit.

14. In documentary evidence, opposite party has filed statement of payment made to applicant & other workmen which is 28 page. This document has been filed on direction of tribunal given on application of the applicant. Opposite party has filed affidavit of Sh. Brijraj Singh in evidence. Sh Brijraj Singh has been cross-examined on 28.10.14 by applicant side.

15. I have heard the argument of learned counsel for both the parties & perused the file. Written argument have been filed by both the parties which is on record.

16. Following citations have been referred on behalf of applicant:—

- i. 1976 LLJ, Supreme Court 478, State Bank of India.....Appellant V/s N. Sundaramoney Respondent.
- ii. Judgement & order dated 21.2.1978 in civil appeal No. 753 - 754(T) of 1975, Bangalore Water Supply & Sewerage Board etc.etc V/s A. Rajappa & other etc.etc
- iii. 1983 LAB.I.C 1629 (Supreme Court), D.P. Maheshwari....Appellant V/s Delhi Administration & others.....Respondents.
- iv. Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No.78/84 in workmen through the president, Archeological Survey Mazdoor Union, New Delhi V/s The Director General, Archeological Survey of India, Janpath, New Delhi.
- v. RLR 1991(2), Jaipur Bench, Oriental Bank of Commerce.....Appellant V/s Presiding Officer, Central Govt. Industrial Tribunal & others (23).
- vi. RLR 1991(2), Jaipur Bench, Surya Prakash Sharma Petitioner V/s Rajasthan Text book Board, Jaipur & Others (122)..... Respondent.

- vii. Award dated 17.11.2008 passed by Industrial Tribunal-Cum-Labour Court, Kanpur in Industrial Dispute no. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra V/s Suresh Chandra.

17. Following citations have been referred on behalf of opposite party:—

- i. Awarded dated 26.11.1986 passed by Central Administrative Tribunal, Ahmedabad in O.A. No. 33/86, Govind Kanji Parmar & othersPetitioner V/s Union of India & others.....Respondents.
- ii. Award dated 30.10.1996 passed by Central Administrative Tribunal, Jodhpur Bench, Jodhpur in O.A. No. 331 to 334/1993, Devi Singh & Others.....petitioners V/s Union of India & Others.....Respondents.
- iii. Award dated 18.1.2001 passed by Central Government Industrial Tribunal-Cum-Labour Court, Jaipur in CGIT case No. B-40/97 in Goverdhan Lal Meena V/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun.

18. It has been argued by the learned counsel for the applicant that applicant has completed continuous 240 days of service in every year but he has removed from service by opposite party in violation of section 25-F, 25-G & 25-H of the Industrial Disputes Act, 1947. It has also been argued that contention of the opposite party is against the law that Archaeological Survey of India is not an 'Industry' within the meaning of section 2(j) of the Act. Against this it has been argued by learned counsel for the opposite party that Archaeological Survey of India is not an 'Industry' & there is no violation of sections 25-F, G & H of the Act. It has also been argued that applicant was neither appointed nor any appointment letter was issued. There was no advertisement for recruitment. It has also been argued that applicant was engaged on part time contract for casual work of repair & soon after completion of the work engagement of the applicant was over. It has also been alleged that his engagement was on daily wage & as the work of repair of the wall was of temporary character hence, on account of end of job & none availability of further job the applicant himself had left the place of job. It has also been argued that whenever there is availability of work, workmen are engaged on daily wage basis for the job. Reference has been made by both the parties towards precedents submitted by them in favour of their respective claim.

19. Before issue No. 1 is decided it appears desirable to take up issues 2,3, & 4 for decision because decision of these issues are important & having relevance in decision of issue No. 1.

Issue No. 2

20. This issue relates to violation of section 25-G of Industrial Disputes Act, 1947 in terminating the services of applicant. Section 25-G of Industrial Disputes Act, 1947 reads as under:—

"Section 25-G. Procedure for retrenchment.—

Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman."

21. From perusal of the provision contained in section 25-G it appears that whenever in ordinary course of business a workman is required to be retrenched then the last person employed by the employer shall be retrenched first unless there is special reason for retrenchment of a person other than the last employed person. From perusal of statement of claim it is evident that in para 13 it has been alleged that there has been violation of section 25-G of Industrial Disputes Act, 1947 in terminating the services of the applicant & junior to the applicant was retained in service at the time of his removal but no one has been named in statement of claim that who is the person junior to the applicant who was retained. In the affidavit also filed by applicant as evidence there is no mention of a person junior to him who was retained in the service at the time of his removal. In the cross examination of the applicant on page 2 this question has been placed before him & he has alleged that when he was removed at that time all other workmen were also removed. This statement of the applicant during cross examination obviously indicates that no one junior to him was retained & removal of all the workman together is also indicative of the fact of Cessation or completion of a particular work for which they are engaged. Here, it is also pertinent to note that it has been repeatedly argued by learned counsel for opposite party that in fact there has been no appointment, therefore, the question of removal of the applicant from employment does not arise. From the perusal of the cross examination of Sh. Brijraj Singh, Deputy Superintendent (Archaeology) it is clear that no assistance can be taken on this point from his cross examination. Basis on above discussion, it is clear that the applicant has failed to prove that at the time of termination of the service of applicant workman, juniors to him were retained by the management in contravention of section 25-G of the I.D. Act. Issue No. 2 is accordingly decided in negative against the applicant.

Issue No. 3

22. This issue is to the effect that whether subsequent to the termination of the workman fresh workmen were engaged by the non-applicant management in violation of section 25-H of the I.D. Act. For convenience provision of section 25-H is reproduced below which reads as under:—

"Sec. 25-H. Re-employment of retrenched workmen—Where any workmen are retrenched, and the employer purposes to take into his employ any persons he shall, in such manner as may be prescribed, give an opportunity to the retrenched workmen who are citizens of India to offer themselves for re-employment, and such retrenched workmen, who offer themselves for re-employment, shall have preference over other persons.

23. The above mentioned section 25-H provides that a retrench employee shall have reference in appointment over rest, if management, intends to employ a workman & the management is under an obligation to give opportunity to retrench workman so that he can offer himself for employment. If opportunity is not given by management it will amount to violation of section 25-H of I.D. Act. Para 14 of statement of claim indicates that after termination of the services of applicant new appointments were made without preference given to applicant. In reply to para 14 of statement of claim non-applicant has denied the appointment. There is no documentary evidence on record about new appointment. Para 6 of affidavit of applicant filed in evidence indicates that new appointments were made with no preference to applicant but in cross examination applicant has admitted that in his affidavit & statement of claim he has not alleged that after his removal who was appointed & when. The applicant has also admitted that in statement of claim also he has not given detail of newly appointed persons. In para 11 of affidavit of Sh. Brijraj Singh witness for opposite party violation of section 25-G & H has been specifically denied. In cross examination of Sh. Brijraj Singh there is nothing significant to draw an inference about violation of section 25-H of I.D. Act. Based on above discussion & appreciation of evidence adduced by the parties I am of the view that the applicant has failed to prove the violation of section 25-H of the I.D. Act regarding appointment of fresh hands subsequent to termination of his service. Issue No. 3 is accordingly decided against the applicant.

Issue No. 4

24. This issue is to the effect that whether establishment of the non-applicant Archaeological Survey of India is an Industry within the meaning of section 2(j) of the I.D. Act. A preliminary objection has been raised by non-applicant that establishment of the non-applicant is not covered under

definition of 'Industry' as indicated in section 2(j) of the I.D. Act. Reliance has been placed by non-applicant on Award dated 18.1.2001 passed by Central Government Industrial Tribunal Cum Labour Court, Jaipur in CGIT case No. B-40/97 in Goverdhan Lal Meena v/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun. Against this, it has been argued by learned counsel for the applicant that establishment of non-applicant is covered by the definition of 'Industry'. Reliance has been placed by non-applicant on Judgement & order dated 21.2.1978 in civil appeal No. 753-754(T) of 1975, Bangalore Water Supply & Sewerage Board etc. etc v/s A. Rajappa & others etc. etc., Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No. 78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi v/s The Director General, Archaeological Survey of India, Janpath, New Delhi & Award dated 17.11.2008 passed by Industrial Tribunal Cum Labour Court, Kanpur, in Industrial Dispute No. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s Suresh Chandra. I have very carefully gone through cases cited by both the parties. Judgement dated 9.6.03 by CGIT, Jabalpur has not been filed by opposite party.

25. In Award dated 18.1.2001 passed by Central Government Industrial Tribunal Cum Labour Court, Jaipur in CGIT case No. B-40/97 in Goverdhan Lal Meena v/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun, cited by learned counsel for the opposite party it has been held in decision of issue No. 4 that provision of I.D. Act, 1947 apply to the case. Issue No. 4 has dealt with the fact that provisions of I.D. Act apply to the opposite party or not. Cases cited by learned counsel for the applicant indicate that Archaeological Survey of India is covered within the definition of 'Industry' as provided in section 2(j) of the I.D. Act. In Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No. 78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi v/s The Director General, Archaeological Survey of India, Janpath, New Delhi, discussing the case of Judgement & order dated 21.2.1978 in civil appeal no. 753-754(T) of 1975, Bangalore Water Supply & Sewerage Board etc. etc v/s A. Rajappa & others etc. etc., it has been held by the CGIT, Delhi that Archaeological Survey of India is an 'Industry'. In Award dated 17.11.2008 passed by Industrial Tribunal Cum Labour Court, Kanpur, in Industrial Dispute no. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s Suresh Chandra, it has been held by CGIT, Kanpur that Archaeological Survey of India is an 'Industry'. From decision of the cases cited on behalf of both the parties & from the fact & circumstances of the present case, I am of the view that establishment of non-applicant Archaeological Survey of India is an 'Industry' within the meaning of section 2(J) of Industrial Disputes

Act, 1947. Issue No. 4 is accordingly decided in affirmative against the non-applicant.

Issue No. 1

26. This issue is to the effect whether the workman had worked for more than 240 days as daily wager during period 25.3.03 to 30.8.06 preceding twelve months from the date of his alleged termination & whether his service was terminated in violation of section 25-F of the Act? It has been argued by learned counsel for the applicant & has also been alleged in the written argument that the applicant has worked for more than 240 days as daily wager during period of 12 months immediately preceding the date of termination on 30.8.06 & termination of the services of applicant is in violation of section 25-F of Industrial Disputes Act, hence, the order of termination is fit to be set aside with continuity in service along with back wages. Against this, it has been argued by the learned counsel for the opposite party & has also been alleged in the written argument that applicant was not appointed by non-applicant, no appointment letter was issued, there was no advertisement for any appointment. It has also been argued that applicant was engaged on daily wage basis for repair of the walls of the fort which is a work of temporary nature. It has also been argued that applicant voluntarily left the place of work on account of none availability of work. It has also been said that on availability of work engagement is made on daily wage basis for the period of work only & provision of section 25-F is not attracted in the case of applicant. It has also been alleged that in view of case of the applicant covered under section 2(o)(bb) of the I.D. Act, compliance of provision of section 25-F is not required.

27. According to statement of claim applicant was appointed on daily wage on 25.3.03 & was terminated on 30.8.06 without notice or pay in lieu of notice or retrenchment compensation in violation of section 25-F of I.D. Act. What was the post held by the applicant during employment has not been alleged in statement of claim. About the nature of the work the applicant has alleged that whatever work was assigned by the opposite party applicant was performing that work. It has also been alleged that his engagement was neither for a fix work nor for a fix period. The applicant has alleged that he has worked for more than 240 days in every year. In affidavit filed in evidence in support of above statement of claim the applicant has repeated the allegation of statement of claim. No other co-worker has been produced as witness in evidence to support the allegation of statement of claim. In written statement it has been specifically denied by opposite party that applicant has worked for more than 240 days in a year instead it has been alleged that applicant has not worked for 240 days in any of the year. Sh. Brijraj Singh has specifically denied in para 3 of his affidavit that the applicant has worked for 240 days in any of the year. In above fact & circumstances, the burden of proof lies on

applicant to prove that he has worked for more than 240 days in a year immediately preceding the date of his termination on 30.8.06 as alleged in statement of claim. The applicant has alleged in his cross examination that he has not stated in his affidavit in evidence or in statement of claim that for how many days he has worked in any corresponding year. He has admitted that he has filed document W-1 & in W-1 nature of work has been mentioned for which he was engaged & W-1 it has also been mentioned that the nature of work includes 'special repair work' & such mention in W-1 is correct. Thus, it shall appear that two documents relating to total number of days of work has been filed by the applicant which is W-1 & W-2. W-2 is the document which appeared to be prepared by workman whereas W-1 is the document which appears to be reply submitted by management during conciliation proceedings. From document W-2 if taken into consideration for calculating the period of 240 days immediately preceding the date of termination on 30.8.06 then total number of days on which the workman has worked between 30.8.05 to 30.8.06 comes out to be 171 days. From document W-1 it comes out to be 206 days but lacks continuity. Thus, workman has failed to prove that he has continuously worked for more than 240 days in the year immediately preceding the date of his termination. It shall also appear from both the documents W-1 & W-2 that there is no continuous work in the year.

28. Document regarding period & corresponding working days filed by management on order of the tribunal passed on application of the applicant provides following details:—

Period of work	Number of working days
25.5.03 to 24.6.03	31
25.7.03 to 24.8.03	09
25.8.03 to 1.9.03	08
17.1.04 to 16.2.04	27
13.4.04 to 13.5.04	27
15.5.04 to 14.6.04	22
9.6.04 to 9.7.04	28
18.7.04 to 27.7.04	09
11.7.04 to 10.8.04	18
12.8.04 to 11.9.04	27
13.9.04 to 13.10.04	28
14.10.04 to 31.10.04	17
1.11.04 to 1.12.04	26
3.12.04 to 2.1.05	27
4.1.05 to 3.2.05	28
19.1.05 to 18.2.05	12

6.2.05 to 8.3.05	16
15.2.05 to 17.3.05	12
9.3.05 to 17.3.05	09
19.3.05 to 13.4.05	23
6.6.05 to 6.7.05	27
7.7.05 to 7.8.05	27
8.10.05 to 7.11.05	29
8.11.05 to 8.12.05	29
10.12.05 to 9.1.06	28
11.1.06 to 10.2.06	29
12.2.06 to 14.3.06	29
9.6.06 to 7.7.06	28
Total number of days between 30.8.05 to 30.8.06	172 days.

29. The statement of above table submitted by opposite party regarding statement of work done by workman indicates that from the date of termination on 30.8.06 applicant has worked only for 172 days in a year immediately preceding the date of termination on 30.8.06. Thus, it is evident that the workman has not worked continuously for 240 days immediately preceding the date of termination. From the above discussion it is clear that applicant has failed to prove that he has worked for more than 240 days immediately preceding the date of termination. From the entire cross examination of Sh. Brijraj Singh there appears nothing to derive in favour of applicant that he has worked for more than 240 days in a year preceding the date of termination. From the above discussion it is clear that applicant has failed to prove that he has continuously worked for more than 240 days in a year immediately preceding the date of his termination.

30. As far as the question of violation of section 25-F of Industrial Dispute is concerned it has been argued by the learned counsel for the applicant that there has been violation of section 25-F in terminating the services of the applicant, against this learned counsel for the opposite party has argued that there is no violation of section 25-F of I.D. Act & section 25-F does not apply in the case of applicant who was neither employed nor terminated & his engagement has been only for specific period & specific work & he has left the workplace on his own accord. It has also been argued that as the question of terminating the services of the applicant does not arise, because he was not given any employment & there was no advertisement for employment, hence, section 25-F does not apply to the case of the applicant. Section 25-F reads as under:—

"25-F. Conditions precedent to retrenchment of workmen.—No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

- (a) The workman has been given on month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice:
- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and
- (c) notice in the prescribed manner is served on the appropriate Government (or such authority as may be specified by the appropriate Government by notification in the Official Gazette.)

31. Continuous service as indicated in section 25-F(1) has been defined in section 25-B(1)(ii) which reads as under:—

Section 25-B. Definition of continuous service.—For the purposes of this Chapter—

(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman.

(2) where a workman is not a continuous service within the meaning of Clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer—

- (a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—
 - (i) one hundred and ninety days in the case of a workman employed below ground in a mine; and
 - (ii) two hundred and forty days, in any other case;

32. Section 2 (oo) provides meaning of retrenchment which reads as under:—

"2(oo)—"retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include—

- (a) Voluntary retirement of the workman; or
- (b) Retirement of the workman on reaching the age of superannuation if the contract of employment

between the employer and the workman concerned contains a stipulation in that behalf; or

- (bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or
- (c) termination of the service of a workman on the ground of continued ill-health;

33. In 2006 Supreme Court Cases (L&S) 38, Surendranagar District Panchayat Appellant V/s Dahyabhai Amarsinh..... Respondent, taking together & analyzing the integrated impact of section 2(o), section 25-B & section 25-F in paragraph 7 page 43, it has been held by Hon'ble Supreme Court, "..... To attract provisions of Section 25-F, the workman claiming protection under it, has to prove that there exists relationship of employer and employee; that he is a workman within the meaning of section 2(s) of the Act; the establishment in which he is employed is an industry within the meaning of the Act and he must have put in not less than one year of continuous service as defined by section 25-B under the employer. These conditions are cumulative. If any of these conditions is missing the provisions of section 25-F will not be attracted. To get relief from the court the workman has to establish that he has right to continue in service and that his service has been terminated without complying with the provisions of section 25-F of the Act. The section postulates three conditions to be fulfilled by an employer for getting a valid retrenchment, namely:—

- (i) one month's clear notice in writing indicating the reasons for retrenchment or that the workman has been paid wages for the period of notice in lieu of such notice;
- (ii) payment of retrenchment compensation which shall be equivalent to 15 days' average pay for every completed year of continuous service or any part thereof, in excess of six months;
- (iii) a notice to the appropriate Government in the prescribed manner.

34. Looking into the above provisions & the law laid down by the Hon'ble Supreme Court to attract the provision of section 25-F, it is clear that the applicant has failed to prove that he has worked continuously for more than 240 days in a calendar year immediately preceding the date of his termination, thus, provision of section 25-F is not attracted in the case of applicant. From above discussion, I am of the view that the applicant has not worked continuously for more than 240 days as daily wage immediately preceding 12 months from the date of his alleged termination on 30.8.06 & his services were not

terminated in violation of section 25-F of Industrial Disputes Act. Issue No. 1 is accordingly decided in negative against the applicant.

35. It has been argued by the learned counsel for the applicant that even if section 25-F is not attracted in case of applicant, he is entitled to the benefits of section 25-G & 25-H which are independent of section 25-F. Reliance has been placed on RLR 1991(2), Jaipur Bench, Oriental Bank of Commerce.....Appellant V/s Presiding Officer, Central Govt. Industrial Tribunal & others & RLR 1991 (2), Jaipur Bench, Surya Prakash SharmaPetitioner V/s Rajasthan Text Book Board, Jaipur & other (122).....Respondent. Against this it has been argued by learned counsel for opposite party that provision of section 25-G & 25-H is not attracted in the case of applicant. I have carefully gone through both the above reported cases.

36. In case of Oriental Bank of Commerce v/s Presiding Officer respondent 2 was employed in the bank of petitioner from 23.5.85 to 28.5.85 for a period of 79 days. He was said to be appointed for leave period only & his engagement came to end after expiry of period of leave. The respondent raised industrial dispute relating to section 25-G & 25-H which was referred for adjudication. After the evidence of both the parties tribunal came to the conclusion that there was violation of section 25-G & section 25-H, hence, respondent was directed to be reinstated & it was also directed that he will entitled to pay from the date of joining because respondent was said to be on the job in some other place. On the basis of evidence tribunal came to conclusion that management had failed to indicate that who was on leave in whose place respondent was employed during leave vacancy, Hence this fact was not admitted by tribunal that engagement of respondent was for the period of leave vacancy. It was admitted by the witness of the management that when respondent was removed from service employee Sh. Virendra Singh junior to the respondent was working. It was also admitted by management witness that after removal of respondent Sh. Mulan Rasool & Sh. Narendra Bhatt were appointed on the post of peon but respondent was not given opportunity. Thus, there was violation of section 25-G & 25-H. Petition against the order of tribunal was dismissed by Division Bench of Hon'ble High Court and award of the tribunal was confirmed.

37. In RLR 1991 (2), Jaipur Bench, Surya Prakash Sharma.....Petitioner v/s Rajasthan Text Book Board, Jaipur & others (122).....Respondent, it has been held by Hon'ble High Court that section 25-G, 25-H & 25-F are independent of each other and section 25-G & 25-H are not dependent on section 25-F. It has also been held that section 25-G & 25-H are applicable irrespective of the fact that the workman has completed 240 days of service or not. It has been further held that rule 76 to 78 of Industrial Dispute Rules, 1957 are independent of each other and

mandatory in nature. Violation of these rules will give a cause of action in favour of workman to claim compensation, damages and re-employment. To derive the benefits of these rules continuous service is not necessary & workmen not having completed 240 days of service are also entitled to the benefits of Rule 76 to 78. In this case petitioner Sh. Suryaprakash Sharma was retrenched from service before completion of 240 days and was not entitled for the benefits u/s 25 of I.D. Act. The only question involved in this case was about applicability of section 25-H of I.D. Act read with Rule 77 and 78. The case of the respondent was that after discharge of petitioner on 1.11.88 they had employed few persons although persons who employed were discharged on 19.8.89. The petition of the petitioner was allowed and he was held entitled to claim wages by way of compensation for the period during which his junior remain in employment.

38. In 1976 LLJ, Supreme Court 478, State Bank of India.....Appellant v/s N. Sundaramoney.....Respondent, it has been held by Hon'ble Supreme Court that read with section 25-B(2) if provision of section 25-F of Industrial Dispute Act is attracted in case of the workman, he cannot be retrenched without payment of compensation at the time of retrenchment as prescribed therein. It is pertinent to mention that facts and circumstances of the present case are different comparing to the facts of State Bank of India v/s N. Sundaramoney, hence, law laid down by Hon'ble Supreme Court in State Bank of India v/s N. Sundaramoney is not attracted in the present case.

39. From decision of issue no 2 and 3 it is clear that applicant is not entitled to the benefit for violation of section 25-G & 25-H of Industrial Dispute Act because violation of these two sections have not been proved by the applicant. It is also clear from the evidence on record that no seniority list is in existence as the case of opposite party is that there was no employment in respect of applicant & he was only engaged casually as and when there was existence of work. Applicant has not proved his appointment or termination by filling any documentary evidence in this behalf who was engaged as daily wager. It has been held by Hon'ble Supreme Court in 2006 Supreme Court Cases (L&S) 38, Surendranagar District PanchayatAppellant V/s Dahyabhai Amarsinh..... Respondent, in para 18 of the judgement in relation to section 25-G & section 25-H as under:—

".....In the absence of regular employment of the workmen, the appellant was not expected to maintain seniority list of the employees engaged on daily wages and in the absence of any proof by the respondent regarding existence of the seniority list and his so-called seniority, no relief could be given to him for non-compliance with provisions of the Act. The courts could have drawn adverse inference against the appellant only when seniority list was

proved to be in existence and then not produced before the court. In order to entitle the court to draw inference unfavourable to the party, the court must be satisfied that evidence is in existence and could have been proved." Finding of Hon'ble Supreme Court in 2006 Supreme Court Cases (L&S) 38, Surendranagar District PanchayatAppellant V/s Dahyabhai Amarsinh..... Respondent, is relevant and applies to the case of applicant.

40. Bases on the findings related to issue no. 1 to 4 & from the discussions as above, I am of the view that applicant is not entitled to any relief as prayed in the statement of claim and action of the management of Archaeological Survey of India in terminating the services of the workman Sh. Prabhu Lal Mali w.e.f. 30.8.06 without following the provisions of section 25-F, 25-G & 25-H of Industrial Disputes Act, 1947 is legal and justified.

41. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 25 जून, 2015

का.आ. 1311.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आर्कियोलॉजिकल सर्वे ऑफ इंडिया राजस्थान के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय जयपुर के पंचाट (संदर्भ सं० 68/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 24/06/2015 को प्राप्त हुआ था।

[सं० एल-42012/44/2007-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 25th June, 2015

S.O. 1311.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 68/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Archaeological Survey of India, Rajasthan and their workmen, which was received by the Central Government on 24/06/2015.

[No. L-42012/44/2007-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JAIPUR**

Bharat Pandey, Presiding Officer

I.D. 68/2007

Reference No. L-42012/44/2007-IR(DU) dated: 9.10.2007

Sh. Omar Din
S/o Shri Ramjani Shah
R/o Village & Post Sherpur
Khilchipur,
Sawai Madhopur (Rajasthan)

V/s

The Regional Officer
Archaeological Survey of India
Ranthambhor Durg,
Sawai Madhopur (Rajasthan).

For the Applicant : Sh. M.F. Beig, Advocate
For the Non-applicant : Sh. T.P. Sharma, Advocate

AWARD

18.5.2015

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-section 1 & 2(A) of Section 10 of the Industrial Dispute Act 1947 has referred the following Industrial Dispute to this tribunal for adjudication:—

"Whether the action of the management of Archaeological Survey of India, Ranthambhore, in terminating the services of their workman Shri Omar Din, w.e.f. 15.3.2006 is legal and justified? If not, to what relief the workman is entitled to?"

2. The fact of the case in brief is that the applicant workman was appointed as daily wager on 11.9.03 on the post of Masson. He was discharging his duty since appointment honestly and there was no complaint by opposite party against his work. Whatever work was assigned to the applicant he completed that work to best of his ability. Applicant was never served with any notice & no charge was ever proved against him.

3. He was appointed on daily wage but his period of appointment or nature of work was not fixed. The work for which he was appointed by opposite party is still existing and the nature of work is permanent. The applicant is 'workman' and the opposite party is 'employer' according to the definition of 'workman' & 'employer' provided in Industrial Disputes Act, 1947. The applicant had worked for more than 240 days in a calendar year immediately preceding the date of termination and his services were terminated on 15.3.06 without giving any notice or any payment in lieu of notice or retrenchment compensation in violation of section 25-F of Industrial Dispute Act, 1947. His termination is unfair labour practice & victimisation adopted by opposite party.

4. Before the termination of the workman seniority list was neither prepared nor published by the opposite party which is violation of Rule 77 of Industrial Disputes Rules, 1958. At the time of termination of the service workmen junior to the applicant were retained in service by the

opposite party in violation of section 25-G of Industrial Disputes Act, 1947. The opposite party has made new appointment after termination of the services of the applicant workman but no priority was given to the applicant which is violation of section 25-H of Industrial Disputes Act, 1947 & Rule 78 of Industrial Disputes Rule, 1958. It has been further alleged by the applicant that applicant requested the opposite party to take the applicant in his employment but he was not taken back and due to non co-operation of opposite party conciliation also failed before the Conciliation Officer. The opposite party has accepted before the Conciliation Officer that applicant was kept on work and work was taken from him, hence, the relation of employer and workman has not been denied by the opposite party but to escape from the liability of illegal termination it has been denied that opposite party is 'Industry' within the meaning of definition provided in Industrial Disputes Act, 1947. The true position is that according to the activities and work the opposite party is an 'Industry' according to the definition of industry provided under Industrial Disputes Act, 1947. The provisions of Industrial Disputes Act, 1947 have not been followed by opposite party, hence, the termination of the services of the workman is illegal and unfair.

5. It has been further alleged that allegation of the opposite party before the Conciliation Officer is that the applicant workman was absent from duty from 11.1.06 to 4.2.06 but workman was not given any show-cause notice. Neither any charge sheet was served upon him regarding absence from place of duty nor any charge was proved. The applicant had made his stand clear before the management that he has not remained absent during above said period and instead of absence he has been working in that period. The applicant had completed more than two years of service and he was demanding from the opposite party to declare him semi-permanent employee. As a result of above demand of the applicant the opposite party instead of making him semi permanent terminated the services of the applicant. The applicant is jobless since the date of termination. It is, therefore, requested that termination order dated 15.3.06 be declared illegal and applicant reinstated with all pay and emoluments along with continuity in service.

6. In reply statement in para 1,2,3,4,5,6,7,8,9,10, 11,12,13,14,15,16,17,18,19,20 of the statement of claim have been specifically denied. In additional reply it has been alleged in para 2 that the applicant labourer was not appointed by the opposite party and he was engaged as casual labourer for carrying out casual work on the basis of part time contract and such engagement was coming to end immediately after completion of the work. It has also been alleged that the applicant labourer has never completed 240 days in any year and applicant is under an obligation to prove this fact by document. Statement of para 5 of statement of claim has been said to be baseless and nature

of the work for which applicant was engaged is alleged to be casual. Against para 7 it has been alleged that to succeed in his sinister design applicant has fabricated the statement.

7. It has been alleged against para 8 of the statement of claim that applicant was called for a fixed works and his service were coming to end after completion of the work. Relation between applicant and opposite party as workman and employer has been specifically denied against para 9 of the statement of claim and has been alleged that since he was never appointed the question of such relationship does not arise. The applicant does not fall within the definition of workman and the department of the opposite party does not fall within the definition of Industry. Applicant was never engaged permanently and he was called only when there was work. He was neither appointed on any post after following the rules of appointment nor any appointment letter was issued to him, therefore, question of termination of his services does not arise. It has been alleged in para 11 of reply that it is pertinent to note that applicant was not removed from the institution of opposite party and the fact is that the work was over hence, his services automatically came to an end. It was not necessary to give notice to the applicant because such notice is issued only to such workman who permanently work for a period of more than 240 days and the department is not satisfied with work of such workman, in that event such workman may be removed after serving one months notice. In case of applicant after completion of work he himself had gone elsewhere.

8. Against para 13 of statement of claim it has been alleged that workmen like applicant are not given any appointment letter neither they are deemed regular workmen of the department. Workman like applicant are engaged on daily wage basis according to need of a particular work for its execution and they are removed after completion of work or at the end of financial year or on other technical ground on suspension or stoppage of work. Against para 14 of statement of claim it has been alleged that nature of the new recruitment by the department whose nature is permanent is done by following the legal procedure and selection is made out of person who possess the prescribed eligibility. Applicant was not appointed on any vacant post under grade 'D'. At the time of engaging the applicant workman he was briefed orally that he is engaged against a specific work and nature of the work is purely temporary and casual in which applicant is not entitled to derive benefit provisions of Industrial Disputes Act. The allegation of the applicant is wrong that he was removed out of animosity. In absence of casual work the services of the workman automatically comes to an end. In last paragraph of the reply it has been prayed that order of dismissal be passed against the statement of claim.

9. In rejoinder dated 3.6.2010 filed by applicant, statement of claim has been reiterated and statement of reply submitted by the opposite party has been alleged to be wrong.

10. In preliminary objection against statement of claim filed by opposite party it has been alleged that applicant was neither given any appointment nor there was any sanctioned or vacant post. Department of the opposite party is not covered within the definition of industry as provided in section 2(j) of Industrial Disputes Act. In B-40/97, Gobardhan Lal Meena V/s. Archaeological Survey of India, it has been held by the Hon'ble Tribunal in its award dated 18.1.2001 that Archaeological Survey of India is not covered within the definition of industry. Industrial Tribunal, Jabalpur in its award dated 9.6.2003 has held that Archaeological Survey of India is not an 'Industry' within the meaning of section 2(j) of Industrial Disputes Act. It has also been alleged that the applicant was engaged for completion of casual work for fixed period of time and he has not worked for 240 days in any of the year, hence, he is not entitled to the benefit of Industrial Dispute Act. It has also been alleged that the applicant left the work on his own even before the completion of the work, hence, he is not entitled to any relief.

11. Against preliminary objection it has been alleged by the applicant that preliminary objections are not tenable at belated stage. It has also been alleged that various precedents it has been alleged that preliminary objections are to be decided along with other issues on merits. It has also been alleged that preliminary objections are evidence based, hence, opposite party be directed to file the reply to the statement of claim.

12. Under mentioned issues were framed on 27.7.2011 by the then learned Presiding Officer of the Tribunal, based on pleadings of both the parties:—

(1) whether the workman had worked for more than 240 days as daily wage during period 11.9.03 to 15.3.06 preceding twelve months from the date of his alleged termination and whose service was terminated in violation of section 25-F of the Act?

(2) At the time of terminating the service of the workman the junior persons to him were retained by the management in contravention of section 25-G of the I.D. Act?

(3) Whether subsequent to the termination of the workman fresh hands were engaged by the non-applicant management in violation of section 25-H of the I.D. Act?

(4) Whether non-applicant establishment is an 'Industry' within the meaning of section 2-J of the I.D. Act?

13. Applicant has filed document W-1 which is reply of opposite party before conciliation proceeding, affidavit of the applicant in evidence and statement of number of working days in calendar year 2003, 2004, 2005 & 2006. Applicant has been cross-examination by opposite party on his affidavit.

14. In documentary evidence, opposite party has filed statement of payment made to applicant and other workmen

which is 17 page. This document has been filed on direction of tribunal given on application of the applicant. Opposite party has filed affidavit of Sh. Brijraj Singh in evidence. Sh. Brijraj Singh has been cross-examined on 28.10.14 by applicant side.

15. I have heard the argument of learned counsel for both parties & perused the file. Written argument have been filed by both the parties which is on record.

16. Following citations have been referred on behalf of applicant:—

- i. 1976 LLJ, Supreme Court 478, State Bank of India..... Appellant V/s. N. Sundarmoney Respondent.
- ii. Judgement & order dated 21.2.1978 in civil appeal No.753-754(T) of 1975, Bangalore Water Supply and Sewerage Board etc. etc V/s. A. Rajappa & others etc. etc.
- iii. 1893 LAB.I.C. 1629 (Supreme Court), D. P. Maheshwari... Applicant V/s. Delhi Administration & Others.....Respondents.
- iv. Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No. 78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi V/s. The Director General, Archaeological Survey of India, Janpath, New Delhi.
- v. RLR 1991(2), Jaipur Bench, Oriental Bank of Commerce.....Appellant V/s. Presiding Officer, Central Govt. Industrial Tribunal and others (23).
- vi. RLR 1991 (2), Jaipur Bench, Surya Prakash Sharma.....Petitioner v/s Rajasthan Text Book Board, Jaipur and other (122).....Respondent.
- vii. Award dated 17.11.2008 passed by Industrial Tribunal-cum-Labour Court, Kanpur, in Industrial Dispute No. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra V/s. Suresh Chandra.

17. Following citations have been referred on behalf of opposite party:—

- i. Award dated 26.11.1986 passed by Central Administrative Tribunal, Ahmedabad in O.A.No. 33/86, Govind Kanji Parmar and Others Petitioner V/s. Union of India and Others Respondents.
- ii. Award dated 30.10.1996 passed by Central Administrative Tribunal, Jodhpur Bench, Jodhpur in O.A.No. 331 to 334/1993, Devi Singh and Others.....Petitioners V/s. Union of India and Others.....Respondents.
- iii. Award dated 18.1.2001 passed by Central Government Industrial Tribunal-cum-Labour Court,

Jaipur in CGIT case No. B-40/97 in Goverdhan Lal Meena V/s. Director (Science), Archaeological Survey of India, Science Branch, Deharadun.

18. It has been argued by the learned counsel for the applicant that applicant has completed continuous 240 days of service in every year but he has removed from service by opposite party in violation of sections 25-F, 25-G & 25-H of the Industrial Disputes Act, 1947. It has also been argued that contention of the opposite party is against the law that Archaeological Survey of India is not an 'Industry' within the meaning of section 2(j) of the Act. Against this it has been argued by learned counsel for the opposite party that Archaeological Survey of India is not an 'Industry' & there is no violation of section 25-F, G & H of the Act. It has also been argued that applicant was neither appointed nor any appointment letter was issued. There was no advertisement for recruitment. It has also been argued that applicant was engaged on part time contract for casual work of repair & soon after completion of the work engagement of the applicant was over. It has also been alleged that this engagement was on daily wage & as the work of repair of the wall was of temporary character hence, on account of end of job & none availability of further job the applicant himself had left the place of job. It has also been argued that whenever there is availability of work, workmen are engaged on daily wage basis for the job. Reference has been made by both the parties towards precedents submitted by them in favour of their respective claim.

19. Before issue No. 1 is decided it appears desirable to take up issues 2, 3 & 4 for decision because decision of these issues are important & having relevance in decision of issue No. 1.

Issue No. 2

20. This issue relates to violation of section 25-G of Industrial Disputes Act, 1947 in terminating the service of applicant. Section 25-G of Industrial Disputes Act, 1947 reads as under:—

“Section 25-G. Procedure for retrenchment.—

Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman.”

21. From perusal of the provision contained in section 25-G it appears that whenever in ordinary course of business a workman is required to be retrenched then the last person employed by the employer shall be retrenched first unless there is special reason for retrenchment of a

person other than the last employed person. From perusal of statement of claim it is evident that in para 13 it has been alleged that there has been violation of section 25-G of Industrial Disputes Act, 1947 in terminating the services of the applicant & junior to the applicant was retained in service at the time of his removal but no one has been named in statement of claim that who is the person junior to the applicant who was retained. In the affidavit also filed by applicant as evidence there is no mention of person junior to him was retained in the service at the time of his removal. In the cross-examination of the applicant on page 2 this question has been placed before him & he has alleged that when he was removed at the time all other workmen were also removed. This statement of the applicant during cross-examination obviously indicates that no one junior to him was retained & removal of all the workman together is also indicative of the fact of Cessation or completion of a particular work for which they are engaged. Here, it is also pertinent to note that it has been repeatedly argued by learned counsel for opposite party that in fact there has been no appointment, therefore, the question of removal of the applicant from employment does not arise. From the perusal of the cross-examination of Sh. Brijraj Singh, Deputy Superintendent (Archaeology) it is clear that no assistance can be taken on this point from his cross-examination. Based on above discussion, it is clear that the applicant has failed to prove that at the time of termination of the service of applicant workman, juniors to him were retained by the management in contravention of section 25-G of the I.D. Act. Issue No. 2 is accordingly decided in negative against the applicant.

Issue No. 3

22. This issue is to the effect that whether subsequent to the termination of the workman fresh workmen were engaged by the non-applicant management in violation of section 25-H of the I.D. Act. For convenience provision of section 25-H is reproduced below which reads as under:—

"Sec. 25-H. Re-employment of retrenched workmen—Where any workmen are retrenched, and the employer purposes to take into his employ any persons he shall, in such manner as may be prescribed, give an opportunity to the retrenched workmen who are citizens of India to offer themselves for re-employment, and such retrenched workmen, who offer themselves for re-employment shall have preference over other persons.

23. The above mentioned section 25-H provides that a retrench employee shall have preference in appointment over rest, if management, intends to employ a workman & the management is under an obligation to give opportunity to retrench workman so that he can offer himself for employment. If opportunity is not given by management it will amount to violation of section 25-H of I.D. Act. Para 14 of statement of claim indicates that after termination of the

services of applicant new appointments were made without preference given to applicant. In reply to para 14 of statement of claim non-applicant has denied the appointment. There is no documentary evidence on record about new appointment. Para 6 of affidavit of applicant filed in evidence indicates that new appointments were made with no preference to applicant but in cross-examination applicant has admitted that in his affidavit & statement of claim he has not alleged that after his removal who was appointment & when. The applicant has also admitted that in statement of claim also he has not given detail of newly appointed persons. In para 11 of affidavit of Sh. Brijraj Singh witness for opposite party violation of section 25-G & H has been specifically denied. In cross-examination of Sh. Brijraj Singh there is nothing significant to draw an inference about violation of section 25-H of I.D. Act. Based on above discussion & appreciation of evidence adduced by the parties I am of the view that the applicant has failed to prove the violation of section 25-H of the I.D. Act regarding appointment of fresh hands subsequent to termination of his service. Issue No. 3 is accordingly decided against the applicant.

Issue no. 4

24. This issue is to the effect that whether establishment of the non-applicant Archaeological Survey of India is an Industry within the meaning of section(j) of the I.D. Act. A preliminary objection has been raised by non-applicant that establishment of the non-applicant is not covered under definition of 'Industry' as indicated in section 2 (j) of the I.D. Act. Reliance has been placed by non-applicant on Award dated 18.1.2001 passed by Central Government Industrial Tribunal-cum-Labour Court, Jaipur in CGIT case No. B-40/97 in Goverdhan Lal Meena V/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun. Against this, it has been argued by learned counsel for the applicant that establishment of non-applicant is covered by the definition of 'Industry'. Reliance has been placed by non-applicant on Judgement & order dated 21.2.1978 in civil appeal No. 753-754(T) of 1975, Bangalore Water Supply & Sewerage Board etc.etc. v/s A. Rajappa & Others etc.etc., Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No. 78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi V/s The Director General, Archaeological Survey of India, Janpath, New Delhi & Award dated 17.11.2008 passed by Industrial Tribunal-cum-Labour Court, Kanpur, in Industrial Dispute No. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s Suresh Chandra. I have very carefully gone through cases cited by both the parties. Judgement dated 9.6.03 by CGIT, Jabalpur has not been filed by the opposite party.

25. In Award dated 18.1.2001 passed by Central Government Industrial Tribunal-cum-Labour Court, Jaipur

in CGIT case No. B-40/97 in Goverdhan Lal Meena v/s Director (Science), Archaeological Survey of India, Science Bench, Deharadun, cited by learned counsel for the opposite party it has been held in decision of issue No. 4 that provision of I.D. Act, 1947 apply to the case. Issue No. 4 has dealt with the fact that provisions of I.D. Act apply to the opposite party or not. Cases cited by learned counsel for the applicant indicate that Archaeological Survey of India is covered within the definition of 'Industry' as provided in section 2(j) of the I.D. Act. In Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No. 78/84 in Workmen through the President, Archaeological Survey mazdoor Union, New Delhi v/s The Director General, Archaeological Survey of India, Janpath, New Delhi, discussing the case of Judgement & order dated 21.2.1978 in civil appeal No. 753-754(T) of 1975, Bangalore Water Supply & Sewerage Board etc. etc v/s A. Rajappa & others etc.etc., it has been held by the CGIT, Delhi that Archaeological Survey of India is an 'Industry'. In Award dated 17.11.2008 passed by Industrial Tribunal Cum Labour Court, Kanpur, in Industrial Dispute No. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s Suresh Chandra, it has been held by CGIT, Kanpur that Archaeological Survey of India is an 'Industry'. From decision of the cases cited on behalf of both the parties & from the fact & circumstances of the present case, I am of the view that establishment of non-applicant Archaeological Survey of India is an 'Industry' within the meaning of section 2(J) of Industrial Disputes Act, 1947. Issue No. 4 is accordingly decided in affirmative against the non-applicant.

Issue No. 1

26. This issue is to the effect whether the workman had worked for more than 240 days as daily wager during period 11.9.03 to 15.3.06 preceding twelve months from the date of his alleged termination & whether his service was terminated in violation of section 25-F of the Act? It has been argued by learned counsel for the applicant & has also been alleged in the written argument that the applicant has worked for more than 240 days as daily wager during period of 12 months immediately preceding the date of termination on 15.3.06 & termination of the services of applicant is in violation of section 25-F of Industrial Disputes Act, hence, the order of termination is fit to be set aside with continuity in service along with back wages. Against this, it has been argued by the learned counsel for the opposite party & has also been alleged in the written argument that applicant was not appointed by non-applicant, no appointment letter was issued, there was no advertisement for any appointment. It has also been argued that applicant was engaged on daily wage basis for repair of the walls of the fort which is a work of temporary nature. It has also been argued that applicant voluntarily left the place of work on account of none availability of work. It has also been said that on availability of work engagement

is made on daily wage basis for the period of work only & provision of section 25-F is not attracted in the case of applicant. It has also been alleged that in view of case of the applicant covered under section 2(oo) (bb) of the I.D. Act, compliance of provision of section 25-F is not required.

27. According to statement of claim applicant was appointed on daily wage on 11.9.03 & was terminated on 15.3.06 without notice or pay in lieu of notice or retrenchment compensation in violation of section 25-F of I.D. Act. What was the post held by the applicant during employment has not been alleged in statement of claim. About the nature of the work the applicant has alleged that whatever work was assigned by the opposite party applicant was performing that work. It has also been alleged that his engagement was neither for a fix work nor for a fix period. The applicant has alleged that he has worked for more than 240 days in every year. In affidavit filed in evidence in support of above statement of claim the applicant has repeated the allegation of statement of claim. No other co-worker has been produced as witness in evidence to support the allegation of statement of claim. In written statement it has been specifically denied by opposite party that applicant has worked for more than 240 days in a year instead it has been alleged that applicant has not worked for 240 days in any of the year. Sh. Brijraj Singh has specifically denied in para 3 of his affidavit that the applicant has worked for 240 days in any of the year. In above fact & circumstances, the burden of proof lies on applicant to prove that he has worked for more than 240 days in a year immediately preceding the date of his termination on 15.03.2006 as alleged in statement of claim. The applicant has alleged in his cross examination that he has not stated in his affidavit in evidence or in statement of claim that for how many days he has worked in any corresponding year. He has admitted that he has filed document w-1 & in w-1 nature of work has been mentioned for which he was engaged & in w-1 it has also been mentioned that the nature of work includes 'special repair work' & such mention in w-1 is correct. Thus, it shall appear that two documents relating to total number of days of work has been filed by the applicant which in w-1 & w-2. W-2 is the document which appeared to be prepared by workman whereas w-1 is the document which appears to be reply submitted by management during conciliation proceedings. From document w-2 if taken into consideration for calculating the period of 240 days immediately preceding the date of termination on 15.03.2006 then total number of days on which the workman has worked between 15.03.2005 to 15.03.2006 comes out to be 115 days. From document w-1 it comes out to be 144 days but lacks continuity. Thus, workman has failed to prove that he has continuously worked for more than 240 days in the year immediately preceding the date of his termination. It shall also appear from both the document w-1 & w-2 that there is not continuous work in the year.

28. Document regarding period & corresponding working days filed by management on order of the tribunal passed on application of the applicant provides following detail:—

Period of work	Number of working days
19.02.2003 to 20.03.2003	24
17.01.2004 to 18.02.2004	28
15.05.2004 to 14.06.2004	27
11.07.2004 to 10.08.2004	28
12.08.2004 to 11.09.2004	21
13.09.2004 to 13.10.2004	22
14.10.2004 to 31.10.2004	16
1.11.2004 to 01.12.2004	24
3.12.2004 to 02.01.2005	26
4.1.2005 to 03.02.2005	26
19.01.2005 to 18.02.2005	09
09.03.2005 to 17.03.2005	08
15.02.2005 to 17.03.2005	09
07.10.2005 to 06.11.2005	26
09.11.2005 to 09.12.2005	26
11.12.2005 to 10.01.2006	27
12.02.2006 to 14.03.2006	30
Total number of days between 15.3.05 to 15.3.06	128 days.

29. The statement of above table submitted by opposite party regarding statement of work done by workman indicates that from the date of termination on 15.03.2006 applicant has worked only for 128 days in a year immediately preceding the date of termination on 15.03.2006. Thus, it is evident that the workman has not worked continuously for 240 days immediately preceding the date of termination. From the above discussion it is clear that applicant has failed to prove that he has worked for more than 240 days immediately preceding the date of termination. From the entire cross examination of Sh. Brijraj Singh there appears nothing to derive in favour of applicant that he has worked for more than 240 days in a year preceding the date of termination. From the above discussion it is clear that applicant has failed to prove that he has continuously worked for more than 240 days in a year immediately preceding the date of his termination.

30. As far as the question of violation of section 25-F of Industrial Dispute is concerned it has been argued by the learned counsel for the applicant that there has been violation of section 25-F in terminating the services of the

applicant, against the learned counsel for the opposite party has argued that there is no violation of section 25-F of I.D. Act and section 25-F does not apply in the case of applicant who was neither employed nor terminated & his engagement has been only for specific period and specific work and he has left the workplace on his own accord. It has also been argued that as the question of terminating the services of the applicant does not arise, because he was not given any employment and there was no advertisement for employment, hence, section 25-F does not apply to the case of the applicant. Section 25-F reads as under:—

"25-F. Conditions precedent to retrenchment of workmen.—No workman employed in any industry who has been in continuous service for not less than one year under as employer shall be retrenched by that employer until:—

- (a) The workman has been given on month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice:
- (b) the workman has been paid, at the time of retrenchment compensation shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and
- (c) notice in the prescribed manner is served on the appropriate Government (or such authority as may be specified by the appropriate Government by notification in the Official Gazette.)

31. Continuous service as indicated in section 25-F(1) has been defined in section 25-B (1) (ii) which reads as under:—

Section 25-B. Definition of continuous service. For the purposes of this Chapter:—

(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman.

(2) where a workman is not in continuous service within the meaning of Clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer:—

- (a) for a period of one year, if the workman, during a period to twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than:—

- (i) one hundred and ninety days in the case of a workman employed below ground in a mine; and
- (ii) two hundred and forty days, in any other case:

32. Section 2(oo) provides meaning of retrenchment which reads as under:—

"2(oo)—"retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include:—

- (a) Voluntary retirement of the workman; or
- (b) Retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or
- (bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or
- (c) termination of the service of a workman on the ground of continued ill-health.

33. About appointment of applicant in the department of opposite party it is pertinent to mention that applicant has admitted in his cross-examination that there was neither advertisement for appointment nor applicant had submitted any application for appointment, hence, statement of applicant in his statement of claim and affidavit that he was appointed by the opposite party on a particular date is baseless and wrong. Thus, question of his appointment & termination does not arise and contention of the opposite party that applicant was not appointed by the opposite party appears to be correct.

34. In 2006 Supreme Court Cases (L&S) 38, Surendranagar District Panchayat..... Appellant V/s Dahyabhai Amarsinh Respondent, taking together and analyzing the integrated impact of section 2(oo), section 25-B and section 25-F in paragraph 7 page 43, it has been held by Hon'ble Supreme Court, "..... To attract provisions of Section 25-F, the workman claiming protection under it, has to prove that there exists relationship of employer and employee; that he is a workman within the meaning of section 2(s) of the Act; the establishment in which he is employed is an industry within the meaning of the Act and he must have put in not less than one year of continuous service as defined by section 25-B under the employer. These conditions are cumulative. If any of these conditions is missing the provisions of section 25-F will not be attracted. To get relief from the court the workman

has to establish that he has right to continue in service and that his service has been terminated without complying with the provisions of section 25-F of the Act. The section postulates three conditions to be fulfilled by an employer for getting a valid retrenchment, namely:—

- (i) one month's clear notice in writing indicating the reasons for retrenchment or that the workman has been paid wages for the period of notice in lieu of such notice;
- (ii) payment of retrenchment compensation which shall be equivalent to 15 days' average pay for every completed year of continuous service or any part thereof, in excess of six months;
- (iii) a notice to the appropriate Government in the prescribed manner.

35. Looking into the above provisions and the law laid down by the Hon'ble Supreme Court to attract the provision of section 25-F, it is clear that the applicant has failed to prove that he has worked continuously for more than 240 days in a calendar year immediately preceding the date of his termination, thus, provision of section 25-F is not attracted in the case of applicant. From above discussion, I am of the view that the applicant has not worked continuously for more than 240 days as daily wage immediately preceding 12 months from the date of his alleged termination on 15.03.2006 and his services were not terminated in violation of section 25-F of Industrial Disputes Act. Issue No. 1 is accordingly decided in negative against the applicant.

36. It has been argued by the learned counsel for the applicant that even if section 25-F is not attracted in case of applicant, he is entitled to the benefits of section 25-G and 25-H which are independent of section 25-F. Reliance has been placed on RLR 1991(2), Jaipur Bench, Oriental Bank of Commerce.....Appellant v/s Presiding Officer, Central Govt. Industrial Tribunal and others and RLR 1991(2), Jaipur Bench, Surya Prakash Sharma.....Petitioner v/s Rajasthan Text Book Board, Jaipur and other (122).....Respondent. Against this it has been argued by learned counsel for opposite party that provision of section 25-G and 25-H is not attracted in the case of applicant. I have carefully gone through both the above reported cases.

37. In case of Oriental Bank of Commerce v/s Presiding Officer respondent No. 2 was employed in the bank of petitioner from 23.5.85 to 28.5.85 for a period of 79 days. He was said to be appointed for leave period only & his engagement came to end after expiry of period of leave. The respondent raised industrial dispute relating to section 25-G & 25-H which was referred for adjudication. After the evidence of both the parties tribunal came to the conclusion that there was violation of section 25-G & section 25-H, hence, respondent was directed to be reinstated & it was

also directed that he will entitled to pay from the date of joining because respondent was said to be on the job in some other place. On the basis of evidence tribunal came to conclusion that management had failed to indicate that who was on leave in whose place respondent was employed during leave vacancy, hence, this fact was not admitted by tribunal that engagement of respondent was for the period of leave vacancy. It was admitted by the witness of the management that when respondent was removed from service employee Sh. Virendra Singh junior to the respondent was working. It was also admitted by management witness that after removal of respondent Sh. Mulan Rasool & Sh. Narendra Bhatt were appointed on the post of peon but respondent was not given opportunity. Thus, there was violation of section 25-G & 25-H. Petition against the order of tribunal was dismissed by Division Bench of Hon'ble High Court & award of the tribunal was confirmed.

38. In RLR 1991 (2), Jaipur Bench, Surya Prakash Sharma..... Petitioner v/s Rajasthan Text Book Board, Jaipur & others (122).... Respondent, it has been held by Hon'ble High Court that section 25-G, 25-H & 25-F are independent of each other & section 25-G & 25-H are not dependent on section 25-F. It has also been held that section 25-G & 25-H are applicable irrespective of the fact that the workman has completed 240 days of service or not. It has been further held that rule 76 to 78 of Industrial Dispute Rules, 1957 are independent of each other & mandatory in nature. Violation of these rules will give a cause of action in favour of workman to claim compensation, damages & re-employment. To derive the benefits of these rules continuous service is not necessary & workmen not having completed 240 days of service are also entitled to the benefits of Rule 76 to 78. In this case petitioner Sh. Suryaprakash Sharma was retrenched from service before completion of 240 days & was not entitled for the benefits u/s 25 of I.D. Act. The only question involved in this case was about applicability of section 25-H of I.D. Act read with Rule 77 & 78. The case of the respondent was that after discharge of petitioner on 1.11.88 they had employed few persons although persons who employed were discharged on 19.8.89. The petition of the petitioner was allowed & he was held entitled to claim wages by way of compensation for the period during which his junior remain in employment.

39. In 1976 LLJ, Supreme Court 478, State Bank of India.... Appellant v/s N. Sundaramoney.... Respondent, it has been held by Hon'ble Supreme Court that read with section 25-B(2) if provision of section 25-F of Industrial Dispute Act is attracted in case of the workman, he cannot be retrenched without payment of compensation at the time of retrenchment as prescribed therein. It is pertinent to mention that facts & circumstances of the present case are different comparing to the facts of State Bank of India v/s N. Sundaramoney, hence, law laid down by Hon' Supreme Court in State Bank of India v/s N. Sundaramoney is not attracted in the present case.

40. From decision of issue No. 2 & 3 it is clear that applicant is not entitled to the benefit for violation of section 25-G & 25-H of Industrial Dispute Act because violation of these two sections have not been proved by the applicant. It is also clear from the evidence on record that no seniority list is in existence as the case of opposite party is that there was no employment in respect of applicant & he was only engaged casually as & when there was existence of work. Applicant has not proved his appointment or termination by filling any documentary evidence in this behalf who was engaged as daily wage. It has been held by Hon'ble Supreme Court in 2006 Supreme Court Cases (L&S) 38, Surendranagar District Panchayat.... Appellant V/s Dahyabhai Amarsinh.... Respondent, in para 18 of the judgement in relation to section 25-G & section 25-H as under:—

"..... In the absence of regular employment of the workmen, the appellant was not expected to maintain seniority list of the employees engaged on daily wages and in the absence of any proof by the respondent regarding existence of the seniority list and his so-called seniority, no relief could be given to him for non-compliance with provisions of the Act. The courts could have drawn adverse inference against the appellant only when seniority list was proved to be in existence and then not produced before the court. In order to entitle the court to draw inference unfavourable to the party, the court must be satisfied that evidence is in existence and could have been proved." Finding of Hon'ble Supreme Court in 2006 Supreme Court Cases (L&S) 38, Surendranagar District Panchayat... Appellant V/s Dahyabhai Amarsinh.... Respondent, is relevant & applies to the case of applicant.

42. Bases on the findings related to issue No. 1 to 4 & from the discussion as above, I am of the view that applicant is not entitled to any relief as prayed in the statement of claim & action of the management of Archaeological Survey of India in terminating the service of the workman Sh. Omar Din w.e.f. 15.3.06 is legal & justified.

42. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 25 जून, 2015

का.आ. 1312.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आर्कियोलॉजिकल सर्वे ऑफ़ इंडिया राजस्थान के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय जयपुर के पंचाट (संदर्भ सं० 69/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24/06/2015 को प्राप्त हुआ था।

[सं० एल-42012/45/2007-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 25th June, 2015

S.O. 1312.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby published the award (I.D. No. 69/2007) of the Central Government Industrial Tribunal-Cum-Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Archaeological Survey of India, Rajasthan and their workmen, which was received by the Central Government on 24.6.2015.

[No. L-42012/45/2007-IR(DU)]
P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, JAIPUR

Bharat Pandey, Presiding Officer

I.D. 69/2007

Reference No. L-42012/45/2007-IR(DU) dated: 8.10.2007

Sh./ Kamlesh Mali
S/o Shri Hazari Mali
R/o village & Post Sherpur
Khilchipur, Ranthambhor Durg,
Sawai Madhopur (Rajasthan)

V/s

The Regional Officer
Archaeological Survey of India
Ranthambhor Durg,
Sawai Madhopur (Rajasthan).

For the Applicant : Sh. M.F. Beig, Advocate.
For the Non-applicant : Sh. T.P. Sharma, Advocate

AWARD

18.5.2015

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-Section 1 & 2 (A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:—

"Whether the action of the management of Archaeological Survey of India, Ranthambhore, in terminating the services of their workman Shri Kamlesh Mali, w.e.f. 8.7.2006 is legal and justified? If not, to what relief the workman is entitled to?"

2. The fact of the case in brief is that the applicant workman was appointed as daily wager on 25.9.03 on the post of masson. He was discharging his duty since appointment honestly and there was not complaint by opposite party against his work. Whatever work was assigned to the applicant he completed that work to best

of his ability. Applicant was never served with any notice and no charge was ever proved against him.

3. He was appointed on daily wage but his period of appointment or nature of work was not fixed. The work for which he was appointed by opposite party is still existing and the nature of work is permanent. The applicant is 'workman' and opposite party is 'employer' according to the definition of 'workman' and 'employer' provided in Industrial Disputes Act, 1947. the applicant had worked for more than 240 days in a calendar year immediately preceding the date of termination and his services were terminated on 8.7.06 without giving any notice or any payment in lieu of notice or retrenchment compensation in violation of section 25-F of Industrial Disputes Act, 1947. His termination is unfair labour practice and victimisation adopted by opposite party.

4. Before the termination of the workman seniority list was neither prepared nor published by the opposite party which is violation of Rule 77 of Industrial Disputes Rules, 1958. At the time of termination of the service workmen junior to the applicant were retained in service by the opposite party in violation of section 25-G of Industrial Disputes Act, 1947. The opposite party has made new appointment after termination of the services of the applicant workman but no priority was given to the applicant which is violation of section 25-H of Industrial Disputes Act, 1947 and Rule 78 of Industrial Disputes Rule, 1958. It has been further alleged by the applicant that applicant requested the opposite party to take the applicant in his employment but he was not taken back and due to non co-operation of opposite party conciliation also failed before the Conciliation Officer. The opposite party has accepted before the Conciliation Officer that applicant was kept on work and work was taken from him, hence the relation of employer and workman has not been denied by the opposite party but to escape from the liability of illegal termination it has been denied that opposite party is 'Industry' within the meaning of definition provided in Industrial Disputes Act, 1947. The true position is that according to the activities and work the opposite party is an 'industry' according to the definition of industry provided under Industrial Disputes Act, 1947. The provisions of Industrial Disputes Act, 1947 have not been followed by opposite party, hence, the termination of the services of the workman is illegal and unfair.

5. It has been further alleged that allegation of the opposite party before the Conciliation Officer is the applicant workman was absent from duty from 15.3.2006 to 8.6.2006 but workman was not given any show-cause notice. Neither any charge sheet was served upon him regarding absence from place of duty nor any charge was proved. The applicant had made his stand clear before the management that he has not remained absent during above said period and instead of absence he has been working in

that period. The applicant had completed more than two years of service and he was demanding from the opposite party to declare him semi permanent employee. As a result of above demand of the applicant the opposite party instead of making him semi permanent terminated the services of the applicant. The applicant is jobless since the date of termination. It is, therefore, requested that termination order dated 8.7.2006 be declared illegal and applicant reinstated with all pay and emoluments along with continuity in service.

6. In reply statement in para 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, & 20 of the statement of claim have been specifically denied. In additional reply it has been alleged in para 2 that the applicant labourer was not appointed by the opposite party and he was engaged as casual labourer for carrying out casual work on the basis of part time contract and such engagement was coming to end immediately after completion of the work. It has been alleged that the applicant labourer has never completed 240 days in any year and the applicant is under an obligation to prove this fact by document. Statement of para 5 of statement of claim has been said to be baseless nature of the work for which applicant was engaged is alleged to be casual. Against para 7 it has been alleged that to succeed in his sinister design applicant has fabricated the statement.

7. It has been alleged against para 8 of the statement of claim that applicant was called for a fixed works and his services were coming to end after completion of the work, Relation between applicant & opposite party as workman and employer has been specifically denied against para 9 of the statement of claim and has been alleged that since he was never appointed the question of such relationship does not arise. The applicant does not fall within the definition of workman and the department of the opposite party does not fall within the definition of Industry. Applicant was never engaged permanently and he was called only when there was work. He was neither appointed on any post after following the rules of appointment nor any appointment letter was issued to him, therefore, question of termination of his services does not arise. It has been alleged in para 11 of reply that it is pertinent to note that applicant was not removed from the institution of opposite party and the fact is that the work was over hence, his services automatically came to an end \. It was not necessary to give notice to the applicant because such notice is issued only to such workman who permanently work for a period of more than 240 days and the department is not satisfied with work of such workman, in that event such workman may be removed after serving one months notice. In case of applicant after completion of work he himself had gone elsewhere.

8. Against para 13 of statement of claim it has been alleged that workmen like applicant are not given any

appointment letter neither they are deemed regular workmen of the department. Workman like applicant are engaged on daily wage basis according to need of a particular work for its execution and they are removed after completion of work or at the end of financial year or on other technical ground on suspension or stoppage of work. Against para 14 of statement of claim it has been alleged that nature of the new recruitment by the department whose nature is permanent is done by following the legal procedure & selection is made out of person who possess the prescribed eligibility. Applicant was not appointed on any vacant post under grade 'D'. At the time of engaging the applicant workman he was briefed orally that he is engaged against a specific work and nature of the work is purely temporary and casual in which applicant is not entitled to derive benefit of provisions of Industrial Disputes. Act. The allegation of the applicant is wrong that he was removed out of animosity. In absence of casual work the services of the workman automatically comes to an end. In last paragraph of the reply it has been parayed that order of dismissal be passed against the statement of claim.

9. In rejoinder dated 3.6.2010 filed by applicant, statement of claim has been reiterated and statement of reply submitted by the opposite party has been alleged to be wrong.

10. In preliminary objection against statement of claim filed by opposite party it has been alleged that applicant was neither given any appointment nor there was any sanctioned or vacant post. Department of the opposite party is not covered within the definition of industry as provided in section 2(j) of Industrial Disputes Act. In B-40/97, Gobardhan Lal Meena v/s Archaeological Survey of India, it has been held by the Hon'ble Tribunal in its award dated 18.1.2001 that Archaeological Survey of India is not covered within the definition of industry. Industrial Tribunal, Jabalpur in its award dated 9.6.2003 has held that Archaeological Survey of India is not an 'Industry' within the meaning of section 2(j) if Industrial Disputes Act. It has also been alleged that the applicant was engaged for completion of casual work for fixed period of time and he has not worked for 240 days in any of the year, hence, he is not entitled to the benefit of Industrial Dispute Act. It has been alleged that the applicant left the work on his own even before the completion of the work, hence, he is not entitled to any relief.

11. Against preliminary objection it has been alleged by the applicant that preliminary objections are not tenable at delated stage. It has also been alleged that various precedents it has been alleged that preliminary objections are to be decided along with other issues on merits. It has also been alleged that preliminary objections are evidence based, hence, opposite party be directed to file the reply to the statement of claim.

12. Under mentioned issues were framed on 27.7.2011 by the then learned Presiding Officer of the Tribunal, based on pleadings of both parties:—

(1) Whether the workman had worked for more than 240 days as daily wager during period 25.9.2003 to 8.7.2006 preceding twelve months from the date of his alleged termination and who service was terminated in violation of section 25-F of the Act?

(2) At the time of terminating the service of the workman the juniors person to him were retained by the management in contravention of section 25-G of the I.D. Act?

(3) Whether subsequent to the termination of the workman fresh hands were engaged by the non-applicant management in violation of section 25-H of the I.D. Act?

(4) Whether non-applicant establishment is an 'industry' within the meaning of section 2-J of the I.D. Act?

13. Applicant has filed document W-1 which is reply of opposite party before conciliation proceeding, affidavit of the applicant in evidence and statement of number of working days in calendar year 2003, 2004, 2005 and 2006. Applicant has been cross examination by opposite party on his affidavit.

14. In documentary evidence, opposite party has filed statement of payment made to applicant and other workmen which is 21 page. This document has been filed on direction of tribunal given on application of the applicant. Opposite party has filed affidavit of Sh. Brijraj Singh in evidence. Sh. Brijraj Singh has been cross examined on 28.10.14 by applicant side.

15. I have heard the argument of learned counsel for both the parties and perused the file. Written argument have been filed by both the parties which is on record.

16. Following citations have been referred on behalf of applicant:—

- i. 1976 LLJ, Supreme Court 478, State Bank of India.....Appellant v/s N. Sundaramoney Respondent.
- ii. Judgement and order dated 21.2.1978 in civil appeal no. 753-754(T) of 1975, Bangalore Water Supply & Sewerage Board etc. etc v/s A Rajappa & other etc.etc.
- iii. 1983 LAB.I.C. 1929 (Supreme Court), D.P. MaheshwarAppellant v/s Delhi Administration and othersRespondents.
- iv. Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No. 78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi v/s The Director General, Archaeological Survey of India, Janpath, New Delhi.

v. RLR 1991(2), Jaipur Bench, Oriental Bank of CommerceAppellant v/s Presiding Officer, Central Govt. Industrial Tribunal & others(23).

vi. RLR 1991(2), Jaipur bench, Surya Prakash Sharma.....Petitioner v/s Rajasthan Text Book Board, Jaipur & others (122).....Respondent.

vii. Award dated 17.11.2008 passed by Industrial Tribunal-cum-Labour Court, Kanpur, in Industrial Dispute No. 9 of 2005 in Deputy superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra V/s Suresh Chandra.

17. Following citations have been referred on behalf of opposite party:—

i. Award dated 26.11.1986 passed by Central Administrative Tribunal, Ahmedabad in O.A.No. 33/86, Govind Kanji Parmar & others....Petitioner V/s Union of India & others....Respondents.

ii. Award dated 30.10.1996 passed by Central Administrative Tribunal, Jodhpur Bench, Jodhpur in O.A.No. 331 to 334/1993, Devi Singh & others.... Petitioners v/s Union of India and others Respondents.

iii. Award dated 18.1.2001 passed by Central Government Industrial Tribunal-cum-Labour Court, Jaipur in CGIT case No.B. 40/97 in Goverdhan Lal Meena V/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun.

18. It has been argued by the learned counsel for the applicant that applicant has completed continuous 240 days of service in every year but he has removed from service by opposite party in violation of section 25-F, 25-G & 25-H of the Industrial Disputes Act, 1947. It has also been argued that contention of the opposite party is against the law that Archaeological Survey of India is not an 'Industry' within the meaning of section 2(j) of the Act. Against this it has been argued by learned counsel for the opposite party that Archaeological Survey of India is not an 'Industry' and there is no violation of section 25-F, G and H of the Act. It has also been argued that applicant was neither appointed nor any appointment letter was issued. There was no advertisement for recruitment. It has also been argued that applicant was engaged on part time contract for casual work of repair & soon after completion of the work engagement of the applicant was over. It has also been alleged that his engagement was on daily wage and as the work of repair of the wall was of temporary character hence, on account, of the job & none availability of further job the applicant himself had left the place of job. It has also been argued that whenever there is availability of work, workmen are engaged on daily wage basis for the job. Reference has been made by both the parties towards precedents submitted by them in favour of their respective claim.

19. Before issue No. 1 is decided it appears desirable to take up issues 2, 3 & 4 for decision because decision of these issues are important and having relevance in decision of issue No. 1.

Issue No. 2

20. This issue relates to violation of section 25-G of Industrial Disputes Act, 1947 in terminating the services of applicant. Section 25-G of Industrial Disputes Act, 1947 reads as under:—

"Section 25-G. Procedure for retrenchment.—Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer, shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman."

21. From perusal of the provision contained in section 25-G it appears that whenever in ordinary course of business a workman is required to be retrenched then the last person employed by the employer shall be retrenched first unless there is special reason for retrenchment of a person other than the last employed person. From perusal of statement of claim it is evident that in para 13 it has been alleged that there has been violation of section 25-G of Industrial Disputes Act, 1947 in terminating the services of the applicant & junior to the applicant was retained in service at the time of his removal but no one has been named in statement of claim that who is the person junior to the applicant who was retained. In the affidavit also filed by applicant as evidence there is no mention of a person junior to him who was retained in the service at the time of his removal. In the cross examination of the applicant on page 2 this question has been placed before him and he has alleged that when he was removed at the time all other workmen were also removed. This statement of the applicant during cross examination obviously indicates that no one junior to him was retained and removal of all the workman together is also indicative of the fact of Cessation or completion of a particular work for which they are engaged. Here, it is also pertinent to note that it has been repeatedly argued by learned counsel for opposite party that in fact there has been no appointment, therefore, the question of removal of the applicant from employment does not arise. From the perusal of the cross examination of Sh. Brijraj Singh, Deputy Superintendent (Archaeology) it is clear that no assistance can be taken on this point from his cross examination. Based on above discussion, it is clear that the applicant has failed to prove that at the time of termination of the service of applicant workman, juniors to him were retained by the management in contravention

of section 25-G of the I.D. Act. Issue No. 2 is accordingly decided in negative against the applicant.

Issue No. 3

22. This issue is to the effect that whether subsequent to the termination of the workman fresh workmen were engaged by the non-applicant management in violation of section 25-H of the I.D. Act. For convenience provision of section 25-H is reproduced below which reads as under:—

"Sec. 25-H. Re-employment of retrenched workmen—Where any workmen are retrenched, and the employer purposes to take into his employ any person he shall, in such manner as may be prescribed, give an opportunity to the retrenched workmen who are citizens of India to offer themselves for re-employment, and such retrenched workmen, who offer themselves for re-employment shall have preference over other persons.

23. The above mentioned section 25-H provides that a retrench employee shall have preference in appointment over rest, if management, intends to employ a workman and the management is under an obligation to give opportunity to retrench workman so that he can offer himself for employment. If opportunity is not given by management it will amount to violation of section 25-H of I.D. Act Para 14 of statement of claim indicates that after termination of the services of applicant new appointments were made without preference given to applicant. In reply to para 14 of statement of claim non-applicant has denied the appointment. There is no documentary evidence on record about new appointment. Para 6 of affidavit of applicant filed in evidence indicates that new appointments were made with no preference to applicant but in cross examination applicant has admitted that in his affidavit and statement of claim he has not alleged that after his removal who was appointed & when. The applicant has also admitted that in statement of claim also he has not given detail of newly appointed persons. In para 11 of affidavit of Sh. Brijraj Singh witness for opposite party violation of section 25-G & H has been specifically denied. In cross examination of Sh. Brijraj Singh there is nothing significant to draw an inference about violation of the section 25-H of I.D. Act. Based on above discussion and appreciation of evidence adduced by the parties I am of the view that the applicant has failed to prove the violation of section 25-H of the I.D. Act regarding appointment of fresh hands subsequent to termination of his service. Issue No. 3 is accordingly decided against the applicant.

Issue No. 4

24. This issue is to the effect that whether establishment of the non-applicant Archaeological Survey of India is an Industry within the meaning of section 2(j) of the I.D. Act. A preliminary objection has been raised by non-applicant

that establishment of the non-applicant is not covered under definition of 'Industry' as indicated in section 2(j) of the I.D. Act. Reliance has been placed by non-applicant on Award dated 18.1.2001 passed by Central Government Industrial Tribunal-cum-Labour Court, Jaipur in CGIT case No. B-40/97 in Goverdhan Lal Meena v/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun. Against this, it has been argued by learned counsel for the applicant that establishment on non-applicant is covered by the definition of 'Industry'. Reliance has been placed by non-applicant on Judgement and order dated 21.2.1978 in civil appeal No. 753-754(T) of 1975, Bangalore Water Supply & Sewerage Board etc. etc V/s A. Rajappa and others etc. etc., Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No. 78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi V/s The Director General, Archaeological Survey of India, Janpath, New Delhi and Award dated 17.11.2008 passed by Industrial Tribunal-cum-Labour Court, Kanpur, in Industrial Dispute No. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra V/s Sureh Chandra. I have very carefully gone through cases cited by both the parties. Judgement dated 9.6.03 by CGIT, Jabalpur has not been filed by opposite party.

25. In Award dated 18.1.2001 passed by Central Government Industrial Tribunal-Cum-Labour Court, Jaipur in CGIT case No. B. 40/97 in Goverdhan Lal Meena V/s Director (Science), Archaeological Survey of India, Science Branch, Deharadun, cited by learn counsel for the opposite party it has been held in decision of Issue No. 4 that provision of I.D. Act, 1947 apply to the case. Issue No. 4 has dealt with the fact that provisions of I.D. Act apply to the opposite party or not. Cases cited by learned counsel for the applicant indicate that Archaeological Survey of India is covered within the definition of 'Industry' as provided in section 2(j) of the I.D. Act. In Award dated 21.10.1988 passed by Industrial Tribunal, Delhi in I.D. No. 78/84 in Workmen through the President, Archaeological Survey Mazdoor Union, New Delhi V/s The Director General, Archaeological Survey of India, Janpath, New Delhi, discussing the case of Judgement & order dated 21.2.1978 in civil appeal No. 753-754(T) of 1975, Bangalore Water Supply & Sewerage Board etc. v/s A. Rajappa & others etc. etc., it has been held by the CGIT, Delhi that Archaeological Survey of India is an 'Industry'. In Award dated 17.11.2008 passed by Industrial Tribunal-cum-Labour Court, Kanpur, in Industrial Dispute No. 9 of 2005 in Deputy Superintending Horticulturist, Archaeological Survey of India, Tajmahal Agra v/s Sureh Chandra, it has been held by CGIT, Kanpur that Archaeological Survey of India is an 'Industry'. From decision of the cases cited on behalf of both the parties & from the fact & circumstances of the present case, I am of the view that establishment of non-applicant Archaeological Survey of India is an 'Industry' within the meaning of section 2(J) of Industrial Disputes

Act, 1947. Issue no. 4 is accordingly decided in affirmative against the non-applicant.

Issue no. 1

26. This issue is to the effect whether the workman had worked for more than 240 days as daily wager during period 25.9.03 to 8.7.06 preceding twelve months from the date of his alleged termination & whether his service was terminated in violation of section 25-F of the Act? It has been argued by learned counsel for the applicant & has also been alleged in the written argument that the applicant has worked for more than 240 days as daily wager during period of 12 months immediately preceding the date of termination on 8.7.06 & termination of the services of applicant is in violation of section 25-F of Industrial Disputes Act, Hence, the order of termination is fit to be set aside with continuity in service along with back wages. Against this, it has been argued by the learned counsel for the opposite party & has also been alleged in the written argument that applicant was not appointed by non-applicant, no appointment letter was issued, there was no advertisement for any appointment. It has also been argued that applicant was engaged on daily wage basis for repair of the walls of the fort which is a work of temporary nature. It has also been argued that applicant voluntarily left the place of work on account of none availability of work. It has also been said that on availability of work engagement is made on daily wage basis for the period of work only & provision of section 25-F is not attracted in the case of applicant. It has also been alleged that in view of case of the applicant covered under section 2(oo) (bb) of the I.D. Act, compliance of provision of section 25-F is not required.

27. According to statement of claim applicant was appointed on daily wage on 25.9.03 & was terminated on 8.7.06 without notice or pay in lieu of notice or retrenchment compensation in violation of section 25-F of I.D. Act. What was the post held by the applicant during employment has not been alleged in statement of claim. About the nature of the work the applicant has alleged that whatever work was assigned by the opposite party applicant was performing that work. It has also been alleged that this engagement was neither for a fix work nor for a fix period. The applicant has alleged that he has worked for more than 240 days in every year. In affidavit filed in evidence in support of above statement of claim the applicant has repeated the allegation of statement of claim. No other co-worker has been produced as witness in evidence to support the allegation of statement of claim. In written statement it has been specifically denied by opposite party that applicant that applicant has not worked for 240 days in a year instead it has been alleged that applicant has not worked for 240 days in any of the year. Sh. Brijraj Singh has specifically denied in para 3 of his affidavit that the applicant has worked for 240 days in any of the year. In above fact & circumstances, the burden of proof lies on applicant to prove that he has worked for more than 240 days in a year

immediately preceding the date of his termination on 8.7.06 as alleged in statement of claim. The applicant has alleged in his cross examination that he has not stated in his affidavit in evidence or in statement of claim that for how many days he has worked in any corresponding year. He has admitted that he has filed document w-1 & in w-1 nature of work has been mentioned for which he was engaged & in w-1 it has also been mentioned that the nature of work includes 'special repair work' & such mention in w-1 is correct. Thus, it shall appear that two documents relating to total number of days of work has been filed by the applicant which in w-1 & w-2. W-2 is the documents which appeared to be prepared by workman whereas w-1 is the documents which appears to be reply submitted by management during conciliation proceedings. From document w-2 if taken into consideration for calculating the period of 240 days immediately preceding the date of termination of 8.7.06 then total number of days on which the workman has worked between w-1 it comes out to be 125 days but lacks continuity. Thus, workman has failed to prove that he has continuously worked for more than 240 days in the year immediately preceding the date of his termination. It shall also appear from both the documents w-1 & w-2 that there is no continuous work in the year.

28. Documents regarding period & corresponding working days filed by management on order of the tribunal passed on application of the applicant proves following detail:—

Period of work	Number of working days
19.2.03 to 20.3.03	Nil
28.7.03 to 24.8.03	Nil
13.4.94 to 13.5.04	Nil
09.06.04 to 09.7.04	Nil
11.7.04 to 10.8.04	Nil
12.8.04 to 11.9.04	Nil
13.9.04 to 12.10.04	Nil
14.10.04 to 21.10.04	17
01.11.04 to 1.12.04	Nil
3.12.04 to 2.1.05	Nil
4.1.05 to 3.2.05	Nil
6.2.05 to 8.3.05	Nil
15.2.05 to 17.3.05	Nil
9.3.05 to 17.3.05	09
19.3.05 to 13.4.05	Nil
8.9.05 to 6.10.05	Nil
9.11.05 to 9.12.05	Nil
11.12.05 to 10.1.06	Nil
11.1.06 to 10.2.06	Nil
12.2.06 to 14.3.06	Nil
9.6.06 to 6.7.06	Nil
Total Number of days between 8.7.2005 to 8.7.2006	Nil

29. The statement of above table submitted by opposite party regarding statement of work done by workman indicates that from the date of termination on 8.7.2006 applicant has worked only for NIL days in a year immediately preceding the date of termination on 8.7.2006. Thus, it is evident that the workman has not worked continuously for 240 days immediately preceding the date of termination. From the above discussion it is clear that applicant has failed to prove that he has worked for more than 240 days immediately preceding the date of termination. From the entire cross examination of Sh. Brijraj Singh there appears nothing to derive in favour of applicant that he has worked for more than 240 days in a year preceding the date of termination. From the above discussion it is clear that applicant has failed to prove that he has continuously worked for more than 240 days in a year immediately preceding the date of his termination.

30. As far as the question of violation of section 25-F of Industrial Dispute is concerned it has been argued by the learned counsel for the applicant that there has been violation of section 25-F in terminating the services of the applicant, against this learned counsel for the opposite party has argued that there is no violation of section 25-F of I.D. Act & section 25-F does not apply in the case of applicant who was neither employed nor terminated & his engagement has been only for specific period & specific work & he has left the workplace on his own accord. It has also been argued that as the question of terminating the services of the applicant does not arise, because he was not given any employment & there was no advertisement for employment, hence, section 25-F does not apply to the case of the applicant. Section 25-F reads as under:—

"25-F. Conditions precedent to retrenchment of workmen—No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until.....

- (a) The workman has been given on month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice:
- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days's average pay for every completed year of continuous service or any part thereof in excess of six months; and
- (c) notice in the prescribed manner is served on the appropriate Government (or such authority as may be specified by the appropriate Government by notification in the Official Gazette.)

31. Continuous service as indicated in section 25-F(1) has been defined in section 25-B(1)(ii) which reads as

under:—

Section 25-B. Definition of continuous service—For the purposes of this Chapter:—

(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman.

(2) Where a workman is not in continuous service within the meaning of Clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer—

- (a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—
 - (i) one hundred and ninety days in the case of a workman employed below ground in a mine; and
 - (ii) two hundred and forty days, in any other case;

32. Section 2 (oo) provides meaning of retrenchment which reads as under:—

"2(oo)---"retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include—

- (a) Voluntary retirement of the workman; or
- (b) Retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or
- (bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or
- (c) termination of the service of a workman on the ground of continued ill-health;

33. About appointment of applicant in the department of opposite party it is pertinent to mention that applicant has admitted in his cross examination that there was neither advertisement for appointment nor applicant had submitted any application for appointment, hence, statement of applicant in his statement of claim & affidavit that he was appointed by the opposite party on a particular date is baseless & wrong. Thus, question of appointment &

termination does not arise & contention of the opposite party that applicant was not appointed by the opposite party appears to be correct.

34. In 2006 Supreme Court Case (L&S) 38, Surendranagar District Panchayat....Appellant v/s. Dahyabhai Amarsinh...Respondent, taking together & analyzing the integrated impact of section 2(oo), section 25-B & section 25-F in paragraph 7 page 43, it has been held by Hon'ble Supreme Court, "---To attract provisions of section 25-F, the workman claiming protection under it, has to prove that there exists relationship of employer and employee; that he is a workman within the meaning of section 2(s) of the Act; the establishment in which he is employed is an industry within the meaning of the Act and he must have put in not less than one year of continuous service as defined by section 25-B under the employer. These conditions are cumulative. If any of these conditions is missing the provisions of section 25-F will not be attracted. To get relief from the court the workman has to establish that he has right to continue in service and that his service has been terminated without complying with the provisions of section 25-F of the Act. The section postulates three conditions to be fulfilled by an employer for getting a valid retrenchment, namely:

- (i) one month's clear notice in writing indicating the reasons for retrenchment or that the workman has been paid wages for the period of notice in lieu of such notice;
- (ii) payment of retrenchment compensation which shall be equivalent to 15 days' average pay for every completed year of continuous service or any part thereof, in excess of six months;
- (iii) a notice to the appropriate Government in the prescribed manner.

35. Looking into the above provisions & the law laid down by the Hon'ble Supreme Court to attract the provision of section 25-F, it is clear that the applicant has failed to prove that he has worked continuously for more than 240 days in a calendar year immediately preceding the date of his termination, thus, provision of section 25-F is not attracted in the case of applicant. From above discussion, I am of the view that the applicant has not worked continuously for more than 240 days as daily wages immediately preceding 12 months from the date of his alleged termination on 8.7.2006 & his services were not terminated in violation of section 25-F of Industrial Disputes Act. Issue no. 1 is accordingly decided in negative against the applicant.

36. It has been argued by the learned counsel for the applicant that even if section 25-F is not attracted in case of applicant, he is entitled to the benefits of section 25-G & 25-H which are independent of section 25-F. Reliance has

been placed on RLR 1991(2), Jaipur Bench, Oriental Bank of Commerce...appellant v/s Presiding Officer, Central Govt. Industrial Tribunal & others & RLR 1991(2), Jaipur Bench, Surya Prakash Sharma...Petitioner v/s Rajasthan Text Book Board, Jaipur & others (122)...Respondent. Against this it has been argued by learned counsel for opposite party that provision of section 25-G & 25-H is not attracted in the case of applicant. I have carefully gone through both the above reported cases.

37. In case of Oriental Bank of Commerce v/s Presiding Officer respondent 2 cash employed in the bank of petitioner from 23.5.85 to 28.5.85 for a period of 79 days. He was said to be appointed for leave period only & is engagement came to end after expiry of period of leave. The respondent raised industrial dispute relating to section 25-G & 25-H which was referred for adjudication. After the evidence of both the parties tribunal came to the conclusion that there was violation of section 25-G & section 25-H, hence, respondent was directed to be reinstated & it was also directed that he will entitled to pay from the date of joining because respondent was said to be on the job in some other place. On the basis of evidence tribunal came to conclusion that management had failed to indicate that who was on leave in whose place respondent was employed during leave vacancy, hence, this fact was not admitted by tribunal that engagement of respondent was for the period of leave vacancy. It was admitted by the witness of the management that when respondent was removed from service employee Sh. Virendra Singh junior to the respondent was working. It was also admitted by management witness that after removal of respondent Sh. Mulan Rasool & Sh. Narendra Bhatt were appointed on the post of peon but respondent was not given opportunity. Thus, there was violation of section 25-G & 25-H. Petition against the order of tribunal was dismissed by Division Bench of Hon'ble High Court & award of the tribunal was confirmed.

38. In RLR 1991 (2), Jaipur Bench, Surya Prakash Sharma...Petitioner v/s Rajasthan Text Book Board, Jaipur & others (122).....Respondent, it has been held by Hon'ble Court that section 25-G, 25-H & 25-F are independent of each other & section 25-G & 25-H are not dependent on section 25-F. It has also been held that section 25-G & 25-H are applicable irrespective of the fact that the workman has completed 240 days of service or not, It has been further held that Rule 76 to 78 of Industrial Dispute Rules, 1957 are independent of each other & mandatory in nature. Violation of these rules will give a cause of action in favour of workman to claim compensation, damages & re-employment. To derive the benefits of these rules continuous service is not necessary & workmen not having completed 240 days of service are also entitled to the benefits of Rule 76 to 78. In this case petitioner Sh. Surya Prakash Sharma was retrenched from service before completion of 240 days & was not entitled for the benefits u/s 25 of I.D. Act. The only question involved in this case

was about applicability of section 25-H of I.D. Act read with Rule 77 & 78. The case of the respondent was that after discharge of petitioner on 1.11.88 they had employed few persons although persons who employed were discharge on 19.8.89. The petition of the petitioner was allowed & he was held entitled to claim wages by way of compensation for the period during which his junior remain in employment.

39. In 1976 LLJ, Supreme Court 478, State Bank of India...Appellant v/s N. Sundaramoney.....Respondent, it has been held by Hon'ble Supreme Court that read with section 25-B(2) if provision of section 25-F of Industrial Dispute Act is attracted in case of the workman he cannot be retrenched without payment of compensation at the time of retrenchment as prescribed therein. It is pertinent to mention that facts & circumstances of the present case are different comparing to the facts of State Bank of India v/s N. Sundaramoney, hence, law laid down by Hon'ble Supreme Court in State Bank of India v/s N. Sundaramoney is not attracted in the present case.

40. From decision of issue No. 2 & 3 it is clear that applicant is not entitled to the benefit for violation of section 25-G & 25-H of Industrial Dispute Act because violation of these two sections have not been proved by the applicant. It is also clear from the evidence on record that no seniority list is in existence as the case of opposite party is that there was no employment in respect of applicant & he was only engaged casually as & when there was existence of work. Applicant has not proved his appointment or termination by filing any documentary evidence in this behalf who was engaged as daily wager. It has been held by Hon'ble Supreme Court in 2006 Supreme Court Cases (L&S) 38, Surendranagar District PanchayatAppellant V/s Dahyabhai Amarsinh Respondent, in para 18 of the judgement in relation to section 25-G & section 25-H as under:—

".....In the absence of regular employment of the workmen, the appellant was not expected to maintain seniority list of the employees engaged on daily wages and in the absence of any proof by the respondent regarding existence of the seniority list and his so-called seniority, no relief could be given to him for non-compliance with provisions of the Act. The courts could have drawn adverse inference against the appellant only when seniority list was proved to be in existence and then not produced before the court. In order to entitle the court to draw inference unfavourable to the party, the court must be satisfied that evidence is in existence and could have been proved." Finding of Hon'ble Supreme Court in 2006 Supreme Court Cases (L&S) 38, Surendranagar District PanchayatAppellant V/s Dahyabhai Amarsinh.... Respondent, is relevant & applies to the case of applicant.

41. Bases on the findings related to issue No. 1 to 4 & from the discussions as above, I am of the view that applicant is not entitled to any relief as prayed in the statement of claim & action of the management of Archaeological Survey of India in terminating the services of the workman Sh. Kamlesh Mali *w.e.f.* 8.7.2006 is legal & justified.

42. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 25 जून, 2015

का.आ. 1313.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एच एम टी मशीन टूल्स लिमिटेड, अजमेर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संं 69/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24/06/2015 को प्राप्त हुआ था।

[सं एल-42011/38/2014-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 25th June, 2015

S.O. 1313.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 69/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the H.M.T. Machine Tools Limited, Ajmer and their workmen, which was received by the Central Government on 24/06/2015.

[No. L-42011/38/2014-IR (DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, JAIPUR

BHARAT PANDEY, Presiding Officer

I.D. 69/2014

Reference No. L-42011/38/2014-IR(DU) dated 11.8.2014

The President

Hindustan Machine Tools

Employees Union, 626/24,

Jadam Bhawan, Narishala Road,

Shakti Nagar, Ajmer.

V/s

The General Manager

H.M.T. Machine Tools Limited,

Viyavar Road, Ajmer.

AWARD

11.5.2015

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:—

“क्या महाप्रबंधक, एचएमटी मशीन टूल्स लिमिटेड, अजमेर के द्वारा संस्थान में कार्यरत श्रमिकों को नियत वेतन तिथी पर वेतन का भुगतान नहीं किया जाना उचित एवं न्यायसंगत है? यदि नहीं तो श्रमिक किस राहत के अधिकारी हैं?”

2. Pursuant to the receipt of the reference order, registered notices were issued to both the parties as per the order of the tribunal dated 29.9.2014 fixing 24.11.2014 for filing statement of claim. On 24.11.2014 learned representative on behalf of opposite party came in appearance & alleged to file authority for & on behalf of opposite party on next date 16.2.2015. Applicant was served for 24.11.2014 but statement of claim was not filed & no one came in appearance for applicant. In interest for justice case was adjourned by the tribunal fixing 16.2.2015 for filing statement of claim. On 16.2.2015 applicant was absent & opposite party was present. Presiding Officer was on leave, 6.5.2015 was fixed for filing statement of claim. On 6.5.2015 also no one appeared for applicant, learned representative for the opposite party was present who alleged that interest is not taken by applicant side in filing statement of claim & only management is coming in appearance since service of notice. Sh. Tara Singh Rawat, Law Officer of the opposite party came in appearance for opposite party. In above fact & circumstances, seeing the uninterestedness from the applicant side in filing statement of claim further opportunity for filing claim was closed & case was reserved for award.

3. It is pertinent to note that on 11.8.2014 reference order was sent by Ministry to the applicant with direction to file statement of claim within 15 days from the date of receipt of reference. Applicant has neither filed statement of claim on the direction of Ministry nor on the notice of the tribunal sent to the applicant. The applicant was under an obligation to file statement of claim after receipt of notice from Ministry even without any notice from the tribunal. Notice sent by the tribunal also has failed to secure positive response from applicant in filing statement of claim. It appears that applicant is not interested & willing to submit the statement of claim for adjudication. In the circumstances & in the absence of statement of claim & material evidence brought on record by the applicant, tribunal is unable to record the finding on the issues referred to it on merit. Accordingly, "No Claim Award" is passed in this matter. The reference under adjudication is answered accordingly.

4. Award as above.

BHARAT PANDEY, Presiding Officer